

R27. Administrative Services, Fleet Operations.**R27-1. Definitions.****R27-1-1. Authority.**

(1) This rule is established pursuant to Section 63A-9-401, which requires the Department of Administrative Services, Division of Fleet Operations, to establish rules regarding the State Fleet.

R27-1-2. Definitions.

In addition to the terms defined in Section 63A-9-101, as used in Title 63A, Chapter 9, or these rules the following terms are defined.

(1) "Accident" means any occurrence, in which a state vehicle is involved in a mishap resulting in harm or injury to persons, or damage to property, regardless of total cost of treatments or repairs. It may also be referred to as an incident.

(2) "Accident Review Committee (ARC)" means the panel formed by each agency to review accidents in which agency employees are involved and make a determination as to whether or not said accidents were preventable.

(3) "Agency" has the same meaning as provided in Section 63A-9-101(1)(a),(b), and (c).

(4) "Agency Motor Vehicle Policy (AMV)" means any policy written by an agency that covers any agency-specific needs involving the use of a state vehicle that are not addressed by state vehicle rules. Agencies shall not adopt policies that are less restrictive than the State vehicle rules.

(5) "Alternative Fuel Vehicles (AFV)" means any vehicle designed and manufactured by an original equipment manufacturer or a converted vehicle designed to operate either on a dual-fuel, flexible-fuel, or dedicated mode while using fuels other than gasoline or diesel. Examples of alternative fuel types are electricity, bio-diesel, fossil-fuel hybrids, compressed natural gas, propane, hydrogen, methanol, ethanol, and any other vehicle fuel source approved by the Federal government's Department of Energy (DOE). AFVs shall be identified and tracked in DFO's fleet information system.

(6) "Authorized Driver" means any employee, as defined in Section 63-30d-102, of an agency who has been identified by the agency in DFO's Fleet Information System as having the authority, within his or her scope of employment, to operate a state vehicle on the agency's behalf, who holds a valid driver license, and has completed the specific training and other criteria required by DFO, Risk Management or employing agency for the vehicle type that will be operated. An Authorized Driver may also be referred to as operator, employee or customer.

(7) "Authorized Passenger" means any state employee acting within the scope of his or her employment, or any other person or animal whose transport is either necessary for the performance of the authorized driver's employment duties, or has been pre-approved by the appropriate department head to accompany an authorized driver.

(8) "Capital only lease vehicle" means any vehicle with a lease designed to recover depreciation cost, (vehicle cost less salvage value spread over the estimated useful life of the vehicle, less the incremental cost of Alternative Fuel Configuration), plus overhead costs only. Capital only leases are subject to DFO approval.

(9) "Commute Use" means an employee driving a state vehicle from the employee's place of business to the employee's place of residence, until the start of the next business day for more than five calendar days per month.

(10) "Compressed Natural Gas Vehicle (CNG)" means any vehicle that may be fueled with compressed natural gas.

(11) "Department" means the Department of Administrative Services.

(12) "Division" has the same meaning as provided by Section 63A-9-101(3).

(13) "Driving Privilege Review Board (DPRB)" means the panel formed for the purpose of reviewing Accident Review Committee (ARC) decisions regarding the suspension, withdrawal or revocation of the state vehicle driving privilege.

(14) "Emergency Vehicle" means any state vehicle which is primarily used for the purpose of providing law enforcement and public safety services as defined in Section 53-12-102(3)(a) and (b), or fire service, or emergency medical services.

(15) "Expansion vehicle" means any vehicle purchased when an agency requires an additional vehicle in order to complete the duties assigned to the requesting agency and will increase the size of the state fleet. The purchase of an expansion vehicle requires legislative approval.

(16) "Extreme Duty Vehicle" a designation used for preventive maintenance purposes, means, but is not limited to, emergency vehicles and vehicles driven primarily off-road.

(17) "Feature" means any option or accessory that is available from the vehicle manufacturer.

(18) "Fixed costs" means, for the purposes of this rule, costs including depreciation, overhead, licensing, betterment, insurance, and title costs, as well as registration fees.

(19) "Fleet Vehicle Advisory Committee" means the panel formed for the purpose of advising DFO, after input from user agencies, as to the vehicle, included features, and equipment that will constitute the standard vehicle for each class in the fleet.

(20) "FO number" means a vehicle specific number assigned to each state vehicle for tracking purposes.

(21) "Fuel Network" means the state program that provides an infrastructure for fueling state vehicles.

(22) "Full Service Lease" means a type of lease designed to recover depreciation costs, overhead costs and all variable costs.

(23) "Heavy-duty Vehicle" means any motor vehicle having a gross vehicle weight range (GVWR) greater than 8,500 pounds. In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(31), with a GVWR greater than 8,500 pounds. Heavy-duty vehicles shall be tracked in DFO's fleet information system.

(24) "Light-duty Vehicle" means any motor vehicle having a gross vehicle weight rating (GVWR) of 8,500 pounds or less. In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(31), with a GVWR of 8,500 pounds or less. Light-duty vehicles shall be tracked in DFO's fleet information system.

(25) "Miscellaneous Equipment" means any equipment, enhancement or accessory that is installed on or in a motor vehicle by persons other than the original vehicle manufacturer, and other non-fleet related equipment. Includes, but is not limited to, light bars, 800 MHz radios, transits, surveying equipment, traffic counters, semaphores, and diagnostic related equipment. Miscellaneous Equipment shall be tracked in DFO's fleet information system.

(26) "Motor Pool" generally, means any vehicle that is made available to agencies for lease on a short-term basis.

(27) "Motor Vehicle" has the same meaning as provided by Section 63A-9-101(6)(a) and (b).

(28) "Motor Vehicle Review Committee (MVRC)" means the panel formed to advise the Division of Fleet Operations (DFO), as required by Subsection 63A-9-301(1). The duties of the MVRC are as specified in Section 63A-9-302.

(29) "Non-Preventable Accident" means any occurrence involving an accident/incident in which everything that could have been reasonably done to prevent it was done and the accident/incident still occurred. Non-preventable accidents shall include vandalism of state vehicles being used to conduct state business.

(30) "Non-road vehicle" means a vehicle, regardless of GVWR, that is not licensed for on-road use. Includes, but is not

limited to, vehicles used principally for construction and other non-transportation purposes. Golf carts, farm tractors, snowmobiles, forklifts and boats are examples of vehicles in this category. Non-road vehicles shall be tracked in DFO's fleet information system.

(31) "Other Equipment" means vehicles and equipment not specifically identified in other standard reporting categories.

(32) "Personal Use" means the use of a state vehicle to conduct an employee's personal affairs, not related to state business.

(33) "Preventable Accident" means any occurrence involving a state vehicle, which results in property damage and/or personal injury, regardless of who was injured, what property was damaged, to what extent, or where it occurred, in which the authorized driver in question failed to do everything that could have reasonably been done to prevent it.

(a) Preventable accidents are not limited to collisions.

(b) As used in this rule, "preventable accidents" include, but are not limited to: damage to the interior of the state vehicle due to improperly locked doors, smoke or burn damage caused by smoking in the vehicle or lack of general care of the vehicles interior.

(34) "Preventive Maintenance (PM)" means vehicle services that are conducted at regular time intervals to deter mechanical breakdowns, including, but not limited to, lube, oil and filter changes.

(35) "Regular Duty Vehicle" a designation used for preventive maintenance purposes, means a vehicle that is driven primarily on paved roads under normal driving conditions.

(36) "Replacement cycle" means the criteria established to determine when the replacement of a state vehicle is necessary. A replacement cycle has a time and mileage element, and is established according to vehicle type and use.

(37) "Replacement vehicle" means a vehicle purchased to replace a state vehicle that has met replacement cycle criteria.

(38) "Service Level Agreement (SLA)" means an agreement, signed annually, between an agency and DFO in which the agency agrees to follow all rules, policies and procedures published by DFO concerning the use of state vehicles. This document also clearly defines the level of service between DFO and agencies.

(39) "State of Utah Fuel Card" means a purchase card issued to vehicles by the fuel network program, to be used when purchasing fuel. Fluids and minor miscellaneous items that may also be purchased with the "State of Utah Fuel Card" cannot exceed the monthly monetary limits placed on such purchases by DFO/Fuel Network, unless otherwise authorized.

(40) "Take-home vehicle" means a state vehicle assigned to be driven to and from an employee's place of residence and their assigned work location for more than five calendar days per month and the employee's use of the vehicle is a working condition benefit and not a taxable fringe benefit under the provisions of IRS bulletin 15-B.

(41) "State vehicle" for the purposes of this rule, has the same meaning as provided by Subsection 63A-9-101(7).

(42) "Unique Motorized Equipment" (UME) means high-cost vehicles and equipment such as trains; locomotives; airplanes; jets; mobile power stations and helicopters. Unique equipment shall be tracked in DFO's fleet information system.

(43) "Variable costs" means costs including, but are not limited to fuel, oil, tires, services, repairs, maintenance and preventive maintenance.

(44) "Vehicle Identification Number (VIN)" means the number issued by the vehicle manufacturer to identify the vehicle in the event of a theft; this number can be found on the driver's side of the dashboard below the windshield.

(45) "Vendor" means any person offering sales or services for state vehicles, such as preventive maintenance or repair services.

**KEY: definitions
January 10, 2005**

63A-9-401

R27. Administrative Services, Fleet Operations.**R27-3. Vehicle Use Standards.****R27-3-1. Authority and Purpose.**

(1) This rule is established pursuant to Section 63A-9-401(1)(c)(ii) and Section 63A-9-401(1)(c)(viii), which authorize the Division of Fleet Operations (DFO) to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.

(2) This rule defines the vehicle use standards for state employees while operating a state vehicle.

R27-3-2. Agency Contact.

(1) Each agency, as defined in Subsection 63A-9-101(a),(b) and (c), shall appoint and designate, in writing, a main contact person from within the agency to act as a liaison between the Division of Fleet Operations and the agency.

R27-3-3. Agency Authorization of Drivers.

(1) Agencies authorized to enter information into DFO's fleet information system shall, for each employee, as defined in section 63-30d-102(2), Utah Governmental Immunity Act, to whom the agency has granted the authority to operate a state vehicle, directly enter into DFO's fleet information system, the following information:

- (a) Driver's name and date of birth;
- (b) Driver license number;
- (c) State that issued the driver license;
- (d) Each Risk Management-approved driver training program(s) taken;
- (e) Date each driver safety program(s) was completed;
- (f) The type vehicle that each safety program is geared towards.

(2) Agencies without authorization to enter information into DFO's fleet information system shall provide the information required in paragraph 1 to DFO for entry into DFO's fleet information system.

(3) For the purposes of this rule, any employee, as defined in section 63-30d-102(2), whose fleet information system record does not have all the information required in paragraph 1 shall be deemed not to have the authority to drive state vehicles and shall not be allowed to drive either a monthly or a daily lease vehicle.

(4) To operate a state vehicle, employees, as defined in section 63-30d-102(2), whose names have been entered into DFO's fleet information system as authorized drivers shall have:

- (a) a valid driver license for the type and class of vehicle being operated;
- (b) completed the driver safety course required by DFO and the Division of Risk Management for the type or class of vehicle being operated; and
- (c) met the age restrictions imposed by DFO and the Division of Risk Management for the type or class of vehicle being operated.

(5) Agencies shall develop and establish procedures to ensure that any individual listed as an authorized driver is not allowed to operate a state vehicle when the individual:

- (a) does not have a valid driver license for the type or class of vehicle being operated; or
- (b) has not completed all training and/or safety programs required by either DFO or the Division of Risk Management for the type or class of vehicle being operated; or
- (c) does not meet the age restrictions imposed by either DFO or the Division of Risk Management for the type or class of vehicle being operated.

(6) A driver license verification check shall be conducted on a regular basis in order to verify the status of the driver license of each employee, as defined in section 63-30d-102(2), whose name appears in the DFO fleet information system as an authorized driver.

(7) In the event that an authorized driver is found not to have a valid driver license, the agency shall be notified, in writing, of the results of the driver license verification check.

(8) Any individual who has been found not to have a valid driver license shall have his or her authority to operate a state vehicle immediately withdrawn.

(9) Any employee, as defined in section 63-30d-102(2), who has been found not to have a valid driver license shall not have the authority to operate a state vehicle reinstated until such time as the individual provides proof that his or her driver license is once again valid.

(10) Authorized drivers shall operate a state vehicle in accordance with the restrictions or limitations imposed upon their respective driver license.

(11) Agencies shall comply with the requirements set forth in Risk Management General Rules, R37-1-8 (3) to R37-1-8 (9).

R27-3-4. Authorized and Unauthorized Use of State Vehicles.

(1) State vehicles shall only be used for official state business.

(2) Except in cases where it is customary to travel out of state in order to perform an employee's regular employment duties and responsibilities, the use of a state vehicle outside the State of Utah shall require the approval of the director of the department that employs the individual.

(3) The use of a state vehicle for travel outside the continental U.S. shall require the approval of the director of the employing department, the director of DFO, and the director of the Division of Risk Management. All approvals must be obtained at least 30 days prior to the departure date. The employing agency shall, prior to the departure date, provide DFO and the Division of Risk Management with proof that proper automotive insurance has been obtained. The employing agency shall be responsible for any damage to vehicles operated outside the United States regardless of fault.

(4) Unless otherwise authorized, the following are examples of the unauthorized use of a state vehicle:

- (a) Transporting family, friends, pets, associates or other persons who are not state employees or are not serving the interests of the state.
- (b) Transporting hitchhikers.
- (c) Transporting acids, explosives, weapons, ammunition, hazardous materials, and flammable materials. The transport of the above-referenced items or materials is deemed authorized when it is specifically related to employment duties.
- (d) Extending the length of time that the state vehicle is in the operator's possession beyond the time needed to complete the official purposes of the trip.
- (e) Operating or being in actual physical control of a state vehicle in violation of Subsection 41-6-44(2), (Driving under the influence of alcohol, drugs or with specified or unsafe blood alcohol concentration), Subsection 53-3-231, (Person under 21 may not operate a vehicle with detectable alcohol in body), or an ordinance that complies with the requirements of Subsection 41-6-43(1), (Local DUI and related ordinances and reckless driving ordinances).

(f) Operating a state vehicle for personal use as defined in R27-1-2(30). Generally, except for approved personal uses set forth in R27-3-5 and when necessary for the performance of employment duties, the use of a state vehicle for activities such as shopping, participating in sporting events, hunting, fishing, or any activity that is not included in the employee's job description, is not authorized.

(g) Using a state vehicle for personal convenience, such as when a personal vehicle is not operational.

(h) Pursuant to the provisions of R27-7-1 et seq., the unauthorized use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-5. Personal Use Standards.

(1) Personal use of state vehicles is not allowed without the direct authorization of the Legislature. The following are circumstances where personal use of state vehicles are approved:

(a) Elected and appointed officials that receive a state vehicle as a part of their respective compensation package, and have been granted personal use privileges by state statute.

(b) Sworn law enforcement officers, as defined in Utah Code 53-13-103, whose agencies have received funding from the legislature for personal use of state vehicles.

(c) In an emergency, a state vehicle may be used as necessary to safeguard the life, health or safety of the driver or passenger.

(2) An employee or representative of the state spending at least one night on approved travel to conduct state business, may use a state vehicle in the general vicinity of the overnight lodging for the following approved activities:

(a) Travel to restaurants and stores for meals, breaks and personal needs;

(b) Travel to grooming, medical, fitness or laundry facilities; and

(c) Travel to and from recreational activities, such as to theaters, parks, or to the home of friends or relatives, provided said employee or representative has received approval for such travel from his or her supervisor.

(d) Pursuant to the provisions of R27-7-1 et seq., the unauthorized personal use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-6. Application for Commute or Take Home Use.

(1) Each petitioning agency shall, for each driver being given commute or take home privileges, annually submit either a completed and agency approved commute form (MP-2) to DFO, or complete the proper online form from the DFO website.

(2) Approval for commute or take home privileges must be obtained from the executive director of the agency.

(3) DFO shall enter the approved commute or take home request into the fleet information system and provide an identification number to both the driver and the agency.

(4) All approvals for commute or take home privileges shall expire at the end of the calendar year on which they were issued and DFO shall notify the agency of said expiration. Agencies shall be responsible for submitting any request for annual renewal of commute or take home use privileges.

(5) Commute use is, unless specifically exempted under R27-3-8, infra, considered a taxable fringe benefit as outlined in IRS publication 15-B. All approved commute use drivers will be assessed the IRS imputed daily fringe benefit rate while using a state vehicle for commute use.

(6) For each individual with commute use privileges, the employing agency shall, pursuant to Division of Finance Policy FIACCT 10-01.00, prepare an Employee Reimbursement/Earnings Request Form and enter the amount of the commute fringe benefit into the payroll system on a monthly basis.

R27-3-7. Criteria for Commute or Take Home Privilege Approval.

(1) Commute or Take Home use may be approved when one or more of the following conditions exist:

(a) 24-hour "On-Call." Where the agency clearly demonstrates that the nature of a potential emergency is such that an increase in response time, if a commute or take home privilege is not authorized, could endanger a human life or cause significant property damage. In the event that emergency response is the sole purpose of the commute or take home privilege, each driver is required to keep a complete list of all call-outs on the monthly DF-61 form for audit purposes.

Agencies may use DFO's online forms to track commute or take home mileage.

(b) Virtual office. Where an agency clearly demonstrates that an employee is required to work at home or out of a vehicle, a minimum of 80 percent of the time and the assigned vehicle is required to perform critical duties in a manner that is clearly in the best interest of the state.

(c) When the agency clearly demonstrates that it is more practical for the employee to go directly to an alternate work-site rather than report to a specific office to pick-up a state vehicle.

(d) When a vehicle is provided to appointed or elected government officials who are specifically allowed by law to have an assigned vehicle as part of their compensation package. Individuals using this criterion must cite the appropriate section of the Utah Code on the MP-2 form.

R27-3-8. Exemptions from IRS Imputed Daily Fringe Benefits.

(1) In accordance with IRS publication 15-b, employees with an individual permanently assigned vehicle are exempt from the imputed daily fringe benefit for commute use when the permanently assigned vehicles are either:

(a) Clearly marked police and fire vehicles;

(b) Unmarked vehicles used by law enforcement officers if the use is specifically authorized;

(c) An ambulance or hearse used for its specific purpose;

(d) Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 lbs;

(e) Delivery trucks with seating for the driver only, or the driver plus a folding jump seat;

(f) A passenger bus with the capacity of at least 20 passengers used for its specific purpose;

(g) School buses;

(h) Tractors and other special purpose farm vehicles;

(i) A pick up truck with a loaded gross vehicle weight of 14,000 lbs or less, if it has been modified so it is not likely to be used more than minimally for personal purposes.

Example: According to the IRS, a pick up truck qualifies for the exemption if it is clearly marked with permanently affixed decals, special painting, or other advertising associated with your trade, business or function and meets either of the following requirements:

(i) It is equipped with at least one of the following items:

(a) A hydraulic lift gate;

(b) Permanent tanks or drums;

(c) Permanent sideboards or panels that materially raise the level of the sides of the truck bed;

(d) Other heavy equipment (such as an electronic generator, welder, boom or crane used to tow automobiles or other vehicles).

(ii) It is used primarily to transfer a particular type of load (other than over public highways) in a construction, manufacturing processing, farming, mining, drilling, timbering or other similar operation for which it is specifically modified.

(j) A van with a loaded gross vehicle weight of 14,000 lbs or less, if it has been specifically modified so it is not likely to be used more than minimally for personal purposes.

Example: According to the IRS, a van qualifies for the exemption if it is clearly marked with permanently affixed decals, special painting or other advertising associated with your trade, business and has a seat for the driver only (or the driver and one other person) and either of the following items:

(i) permanent shelving that fills most of the cargo area; or

(ii) An open cargo area and the van always carries merchandise, material or equipment used in your trade, business or function.

(2) Questions relating to the imputed daily taxable fringe benefit for the use of a state vehicle and exemptions thereto

should be directed to DFO.

R27-3-9. Enforcement of Commute Use Standards.

(1) Agencies with drivers who have been granted commute or take home privileges shall establish internal policies to enforce the commute use, take home use and personal use standards established in this rule. Agencies shall not adopt policies that are less stringent than the standards established in these rules.

(2) Commute or take home use that is unauthorized shall result in the suspension or revocation the commute use privilege. Additional instances of unauthorized commute or take home use may result in the suspension or revocation of the state driving privilege.

R27-3-10. Use Requirements for Monthly Lease Vehicles.

(1) Agencies that have requested, and received monthly lease options on state vehicles shall:

(a) Ensure that only authorized drivers whose names and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated, shall operate monthly lease vehicles.

(b) Report the correct odometer reading when refueling the vehicle. In the event that an incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(c) Return the vehicle in good repair and in clean condition at the completion of the replacement cycle period or when the vehicle has met the applicable mileage criterion for replacement, reassignment or reallocation.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(d) Return the vehicle unaltered and in conformance with the manufacturer's specifications.

(e) Pay the applicable insurance deductible in the event that monthly lease vehicle in its possession or control is involved in an accident.

(f) Not place advertising or bumper stickers on state vehicles without prior approval of DFO.

(2) The provisions of Rule R27-4-6 shall govern agencies when requesting a monthly lease.

(3) Under no circumstances shall the total number of occupants in a monthly lease 15-passenger van exceed ten (10) individuals, the maximum number recommended by the Division of Risk Management.

R27-3-11. Use Requirements for Daily Motor Pool Vehicles.

(1) DFO offers state vehicles for use on a daily basis at an approved daily rental rate. Drivers of a state vehicle offered through the daily pool shall:

(a) Provide DFO with at least 24 hours notice when requesting vehicles such as 15 passenger vans, sports utility vehicles and wheelchair accessible vehicles. Agencies should be aware that while DFO will attempt to accommodate all requests for vehicles, the limited number of vehicles in the daily pool not only requires that reservations be granted on a first come, first served basis, but also places DFO in a position of being unable to guarantee vehicle availability in some cases, even where the requesting driver or agency provides at least 24 hours notice.

(b) Be an authorized driver whose name and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated. In the event that any of the information required by R27-3-3(1) has not been entered in DFO's fleet information system, the rental vehicle will not be released.

(c) Read the handouts, provided by DFO, containing information regarding the safe and proper operation of the vehicle being leased.

(d) Verify the condition of, and acknowledge responsibility for the care of, the vehicle prior to rental by filling out the MP-98 form provided by daily rental personnel.

(e) Report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. In the event that incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(f) Return vehicles with at least 3/4 tank of fuel left. In the event that the vehicle has less than 3/4 of a tank of fuel left, the driver shall, prior to returning the vehicle, refuel the vehicle. Agencies shall be assessed a fee for vehicles that are returned with less than 3/4 of a tank of fuel.

(g) Return rental vehicles in good repair and in clean condition.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(h) Call to extend the reservation in the event that they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time.

(i) Use their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time.

(j) Call the daily pool where they made reservations, at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled.

(k) Not place advertising or bumpers stickers on state vehicles without prior approval from DFO.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged prior to rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying all applicable insurance deductibles whenever a vehicle operated by an authorized driver is involved in an accident.

(4) The DFO shall hold items left in daily rental vehicles for ten days. Items not retrieved within the ten-day period shall be turned over to the Surplus Property Office for sale or disposal.

R27-3-12. Daily Motor Pool Sedans, Four Wheel Drive Sport Utility Vehicle (4x4 SUV), Cargo Van, Multi-Passenger Van and Alternative Fuel Vehicle Lease Criteria.

(1) The standard state vehicle is a compact sedan, and shall be the vehicle type most commonly used when conducting state business.

(2) Requests for vehicles other than a compact sedan may be honored in instances where the agency and/or driver is able

to identify a specific need.

(a) Requests for a four wheel drive sport utility vehicle (4x4 SUV) may be granted with written approval from an employee's supervisor.

(b) Requests for a seven-passenger van may be granted in the event that the driver is going to be transporting more than three authorized passengers.

(c) Requests for a fifteen (15) passenger van may be granted in the event that the driver is going to be transporting more than six authorized passengers. Under no circumstances shall the total number of occupants exceed ten (10) individuals, the maximum number recommended by the Division of Risk Management.

(3) Cargo vans shall be used to transport cargo only. Passengers shall not be transported in cargo area of said vehicles.

(4) Non-traditional (alternative) fuel shall be the primary fuel used when driving a bi-fuel or dual-fuel state vehicle. Drivers shall, when practicable, use an alternative fuel when driving a bi-fuel or dual-fuel state vehicle.

R27-3-13. Alcohol and Drugs.

(1) No authorized driver shall operate or be in actual physical control of a State vehicle in violation of subsection 41-6-44(2), any ordinance that complies with the requirements of subsection 41-6-43(1), or subsection 53-3-231.

(2) Any individual on the list of authorized drivers who is convicted of Driving Under the Influence of alcohol or drugs(DUI), Reckless Driving or any felony in which a motor vehicle is used, either on-duty or off-duty, may have his or her state driving privileges withdrawn, suspended or revoked.

(3) No operator of a state vehicle shall transport alcohol or illegal drugs of any type in a State vehicle unless they are:

(a) Sworn peace officers, as defined in Section 53-13-102, in the process of investigating criminal activities;

(b) Employees of the Alcohol Beverage Control Commission conducting business within the guidelines of their daily operations; or

(c) investigators for the Department of Commerce in the process of enforcing the provisions of section 58-37, Utah Controlled Substances Act.

(4) Except as provided in paragraph 3, above, any individual who uses a state vehicle for the transportation of alcohol or drugs may have his or her state driving privileges withdrawn, suspended or revoked.

R27-3-14. Violations of Motor Vehicle Laws.

(1) Authorized drivers shall obey all motor vehicle laws while operating a state vehicle.

(2) Any authorized driver who, while operating a state vehicle, receives a citation for violating a motor vehicle law shall immediately report the receipt of the citation to their respective supervisor. Failure to report the receipt of a citation may result in the withdrawal, suspension or revocation of State driving privileges.

(3) Any driver who receives a citation for violating a motor vehicle law while operating a state vehicle shall attend an additional Risk Management-approved mandatory defensive driver training program. The failure to attend the additional mandatory defensive driver training program shall result in the loss of state driving privileges.

(4) Any driver who receives a citation for a violation of motor vehicle laws, shall be personally responsible for paying fines associated with any and all citations. The failure to pay fines associated with citations for the violation of motor vehicle laws may result in the loss of state driving privileges.

R27-3-15. Seat Restraint Use.

(1) All operators and passengers in State vehicles shall

wear seat belt restraints while in a moving vehicle.

(2) All children being transported in State vehicles shall be placed in proper safety restraints for their age and size as stated in Subsection 41-6-148(20)(2).

R27-3-16. Driver Training.

(1) Any individual shall, prior to the use of a state vehicle, complete all training required by DFO or the Division of Risk Management, including, but not limited to, the defensive driver training program offered through the Division of Risk Management.

(2) Each agency shall coordinate with the Division of Risk Management, specialty training for vehicles known to possess unique safety concerns, like 15 passenger vans and sport utility vehicles.

(3) Each agency shall require that all employees who operate a state vehicle, or their own vehicles, on state business as an essential function of the job, or all other employees who operate vehicles as part of the performance of state business, comply with the requirements of Division of Risk Management rule R37-1-8(5).

(4) Agencies shall maintain a list of all employees who have completed the training courses required by DFO, Division of Risk Management and their respective agency.

(5) Employees operating state vehicles must have the correct license required for the vehicle they are operating and any special endorsements required in order to operate specialty vehicles.

R27-3-17. Smoking in State Vehicles.

(1) All multiple-user state vehicles are designated as "nonsmoking". Agencies shall be assessed fees for any damage incurred as a result of smoking in vehicles.

(2) Agencies that allow smoking in exclusive use vehicles shall be responsible for the cost of necessary repairs to, or refurbishment of, any vehicle in which smoking has been permitted to insure that the vehicle is suitable for reassignment, reallocation or sale when the vehicle reaches the applicable replacement criteria.

**KEY: state vehicle use
December 20, 2004**

**53-13-102
63A-9-401(1)(c)(viii)**

R27. Administrative Services, Fleet Operations.**R27-4. Vehicle Replacement and Expansion of State Fleet.****R27-4-1. Authority.**

(1) This rule is established pursuant to Subsections 63A-9-401(1)(a), 63A-9-401(1)(d)(v), 63A-9-401(1)(d)(ix), 63A-9-401(1)(d)(x), 63A-9-401(1)(d)(xi) 63A-9-401(1)(d)(xii), and 63A-9-401(6) which require the Division of Fleet Operations (DFO) to: coordinate all purchases of state vehicles; make rules establishing requirements for the procurement of state vehicles, whether for the replacement or upgrade of current fleet vehicles or fleet expansion; make rules establishing requirements for cost recovery and billing procedures; make rules establishing requirements for the disposal of state vehicles; make rules establishing requirements for the reassignment and reallocation of state vehicles and make rules establishing rate structures for state vehicles.

(a) All agencies exempted from the DFO replacement program shall provide DFO with a complete list of intended vehicle purchases prior to placing the order with the vendor.

(b) DFO shall work with each agency to coordinate vehicle purchases to make sure all applicable mandates, including but not limited to alternative fuel mandates, and safety concerns are met.

(c) DFO shall assist agencies, including agencies exempted from the DFO replacement program, in their efforts to insure that all vehicles in the possession, control, and/or ownership of agencies are entered into the fleet information system.

(2) Pursuant to Subsection 63-38-3.5(8)(f)(ii), vehicles acquired by agencies, or monies appropriated to agencies for vehicle purchases, may be transferred to DFO and, when transferred, become part of the Consolidated Fleet Internal Service Fund.

R27-4-2. Fleet Standards.

(1) Prior to the purchase of replacement and legislatively approved expansion vehicles for each fiscal year, the Fleet Vehicle Advisory Committee (FVAC) shall, on the basis of input from user agencies, recommend to DFO a standard vehicle and the features and miscellaneous equipment to be included in said vehicle for each vehicle class in the fleet.

(2) DFO shall, after reviewing the recommendations made by the FVAC, determine and establish, for each fiscal year, the standard replacement vehicle, along with included features and miscellaneous equipment for each vehicle class in the fleet.

(3) DFO shall establish lease rates designed to recover, in addition to overhead and variable costs, the capital cost associated with acquiring a standard replacement vehicle for each vehicle class in the fleet.

(4) DFO shall establish replacement cycles according to vehicle type and expected use. The replacement cycle that applies to a particular vehicle supposes that the vehicle will be in service for a specified period of time and will be driven an optimum number of miles within that time. Whichever of the time or mileage criterion is reached first shall result in the vehicle's replacement.

R27-4-3. Delegation of Division Duties.

(1) Pursuant to the provisions of UCA 63A-9-401(6), the Director of DFO, with the approval of the Executive director of the Department of Administrative Services, may delegate motor vehicle procurement and disposal functions to institutions of higher education by contract or other means authorized by law, provided that:

(a) The funding for the procurement of vehicles that are subject to the agreement comes from funding sources other than state appropriations, or the vehicle is procured through the federal surplus property donation program;

(b) Vehicles procured with funding from sources other than state appropriations, or through the federal surplus property

donation program shall be designated "do not replace;" and

(c) In the event that the institution of higher education is unable to designate said vehicles as "do not replace," the institution shall warrant that it shall not use state appropriations to procure their respective replacements without legislative approval.

(2) Agreements made pursuant to Section 63A-9-401(6) shall, at a minimum, contain:

(a) a precise definition of each duty or function that is being allowed to be performed; and

(b) a clear description of the standards to be met in performing each duty or function allowed; and

(c) a provision for periodic administrative audits by either the DFO or the Department of Administrative Services; and

(d) a representation by the institution of higher education that the procurement or disposal of the vehicles that are the subject matter of the agreement shall be coordinated with DFO. The institution of higher education shall, at the request of DFO, provide DFO with a list of all conventional fuel and alternative fuel vehicles it anticipates to procure or dispose of in the coming year. Alternative fuel vehicles shall be purchased by the agency or institution of higher education, when necessary, to insure state compliance with federal AFV mandates; and

(e) a representation by the institution of higher education that the purchase price is less than or equal to the state contract price for the make and model being purchased; and in the event that the state contract price is not applicable, that the provisions of Section 63-56-1 shall be complied with; and

(f) a representation that the agreement is subject to the provisions of UCA 63-38-3.5, Internal Service Funds - Governance and review; and

(g) a representation by the institution of higher education that it shall enter into DFO's fleet information system all information that would be otherwise required for vehicles owned, leased, operated or in the possession of the institution of higher education; and

(h) a representation by the institution of higher education that it shall follow state surplus rules, policies and procedures on related parties, conflict of interest, vehicle pricing, retention, sales, and negotiations; and

(i) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) An agreement made pursuant to Section 63A-9-401(7) may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Administrative Services reveal a lack of compliance with the terms of the agreement.

R27-4-4. Vehicle Replacement.

(1) All state fleet motor vehicles shall, subject to budgetary constraints, be replaced when the vehicle meets the first of either the mileage or time component of the established replacement cycle criteria.

(2) Prior to the purchase of replacement motor vehicles, DFO shall provide each agency contact with a list identifying all vehicles that are due for replacement, and the standard replacement vehicle for the applicable class that has been established by DFO after reviewing the recommendations of the FVAC that will be purchased to take the place of each vehicle on the list.

(3) Agencies may request that state fleet motor vehicles in their possession or control that have a history of excessive repairs, but have not reached either the mileage or time component of the applicable replacement cycle, be replaced. The request to replace motor vehicles with a history of excessive repairs is subject to budgetary constraints and the approval of the Director of DFO or the director's designee.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive

director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for the replacement of motor vehicles with a history of excessive repairs.

(5) In the event that the replacement vehicle is not delivered to the agency by the vendor, the agency shall have five working days to pick-up the replacement vehicle from DFO, after receiving official notification of its availability. If the vehicles involved are not exchanged within the five-day period, a daily storage fee will be assessed and the agency will be charged the monthly lease fee for both vehicles.

(6) DFO is responsible for insuring that the state motor vehicle fleet complies with United States Department of Energy alternative fuel vehicle (AFV) mandates. DFO may require that a certain number of replacement vehicles, regardless of the requesting agency, be alternate fuel vehicles to insure compliance with said AFV mandates.

R27-4-5. Fleet Expansion.

(1) Any expansion of the state motor vehicle fleet requires legislative approval.

(2) The agency requesting a vehicle that will result in fleet expansion or that a vehicle currently designated "do not replace" be placed on a replacement cycle, shall be required to provide proof of the requisite legislative approval and funding for the procurement of an expansion vehicle or the placement of a "do not replace" vehicle on a replacement cycle, and any additional features and miscellaneous equipment, before DFO is authorized to purchase the expansion vehicle.

(3) For the purposes of this rule, an agency shall be deemed to have the requisite legislative approval under the following circumstances only:

(a) The procurement of expansion vehicles or the placement of a "do not replace" vehicle on a replacement cycle is explicitly authorized by the Appropriations Committee during the general legislative session; or

(b) The procurement of expansion vehicles or the placement of a "do not replace" vehicle on a replacement cycle is explicitly authorized by a special session of the legislature convened for the express purpose of approving fleet expansion.

(4) For the purposes of this rule, only the following shall constitute acceptable proof of legislative approval of the requested expansion or placement of a "do not replace" vehicle on a replacement cycle:

(a) A letter, signed by the agency's Chief Financial Officer, citing the specific line item in the appropriations bill providing said authorization; or

(b) Written verification from the agency's analyst in the Governor's Office of Planning and Budget (GOPB) indicating that the request for expansion was authorized and funded by the legislature.

(5) Upon receipt of proof of legislative approval of an expansion from the requesting agency, DFO shall provide to the State Division of Finance copies of the proof submitted in order for the Division of Finance to initiate the process for the formal transfer of funds necessary to procure the expansion vehicle(s) from the requesting agency to DFO. In no event shall DFO purchase expansion vehicles for requesting agencies until the Division of Finance has completed the process for the formal transfer of funds.

(6) In the event that the requesting agency receives legislative approval for placing a "do not replace" vehicle on a replacement cycle, the requesting agency shall, in addition to providing DFO with proof of approval and funding, provide the Division of Finance with funds, for transfer to DFO, equal to the amount of depreciation that DFO would have collected for the number of months between the time that the "do not replace" vehicle was put into service and the time that the requesting agency begins paying the applicable monthly lease rate for the

replacement cycle chosen. In no event shall DFO purchase a replacement vehicle for the "do not replace" vehicle if the requesting agency fails to provide funds necessary to cover said depreciation costs.

(7) When the expansion vehicle is procured, the vehicle shall be added to the fleet and a replacement cycle established.

(8) DFO is responsible for insuring that the state motor vehicle fleet complies with United States Department of Energy alternative fuel vehicle (AFV) mandates. DFO may require that a certain number of expansion vehicles, regardless of the requesting agency, be alternate fuel vehicles to insure compliance with said AFV mandates.

R27-4-6. Vehicle Feature and Miscellaneous Equipment Upgrade.

(1) Additional feature(s) or miscellaneous equipment to be added to the standard replacement vehicle in a given class, as established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC), that results in an increase in vehicle cost shall be deemed a feature and miscellaneous equipment upgrade. A feature or miscellaneous equipment upgrade occurs when an agency requests:

(a) That a replacement vehicle contains a non-standard feature. For example, when an agency requests that an otherwise standard replacement vehicle have a diesel rather than a gasoline engine, or that a vehicle contain childproof locks.

(b) The installation of additional miscellaneous equipment not installed by the vehicle manufacturer. For example, when an agency requests that light bars or water tanks be installed on an otherwise standard replacement vehicle.

(2) Requests for feature and miscellaneous equipment upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director, or the appropriate budget or accounting officer.

(3) All requests for vehicle feature and/or miscellaneous equipment upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle feature and/or miscellaneous equipment upgrades shall be approved when in the judgment of the Director of DFO or the director's designee, the requested feature and/or miscellaneous equipment upgrades are necessary and appropriate for meeting the agency's needs.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a feature and/or miscellaneous equipment upgrade.

(5) Agencies obtaining approval for feature and/or miscellaneous equipment upgrades shall, prior to the purchase of the vehicle, pay in full to DFO, a feature and/or miscellaneous equipment upgrade rate designed to recover the total cost associated with providing the additional feature(s) and/or miscellaneous equipment, unless the requesting agency otherwise negotiates an agreement with DFO for payments to be made in installments, and provided that the terms of the installment agreement do not delay the payment of the general fund debt.

(6) In the event that an agreement providing for the payment of a feature and/or miscellaneous equipment upgrade in installments is reached, the agency shall indemnify and make DFO whole for any losses incurred resulting from damage to, loss or return of the vehicle and/or equipment prior to the receipt of all payment installments by DFO.

R27-4-7. Agency Installation of Miscellaneous Equipment.

(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of

Administrative Services, may enter into Memoranda of Understanding allowing customer agencies to install miscellaneous equipment on or in state vehicles if:

(a) the agency or institution has the necessary resources and skills to perform the installations; and

(b) the agency or institution has received approval for said miscellaneous equipment as required by R27-4-6.

(2) Each memorandum of understanding for the installation of miscellaneous equipment shall, at a minimum, contain the following:

(a) a provision that monthly lease fees shall be charged to the agency from the date of the agency's receipt of the replacement vehicle as required under R27-4-9(7)(b); and

(b) a provision that said agency shall indemnify and hold DFO harmless for any claims made by a third party that are related to the installation of miscellaneous equipment in or on state vehicles in the agency's possession and/or control; and

(c) a provision that said agency shall indemnify DFO for any damage to state vehicles resulting from installation or de-installation of miscellaneous equipment; and

(d) a provision that agencies with permission to install miscellaneous equipment shall enter into the DFO fleet information system the following information regarding the miscellaneous equipment procured for installation in or on state vehicles, whether the item is held in inventory, currently installed on a vehicle, or sent to surplus;

(i) item description or nomenclature; and

(ii) manufacturer of item; and

(iii) item identification information for ordering purposes;

and

(iv) procurement source; and

(v) purchase price of item; and expected life of item in years; and

(vi) warranty period; and

(vii) serial number;

(viii) initial installation date; and

(ix) current location of item (warehouse, vehicle number);

and

(x) anticipated replacement date of item; and

(xi) actual replacement date of item; and

(xii) date item sent to surplus; and SP-1 number.

(e) a provision requiring the agency or institution with permission to install being permitted to install miscellaneous equipment to obtain insurance from the Division of Risk Management in amounts sufficient to protect itself from damage to, or loss of, miscellaneous equipment installed on state vehicles. Agencies or institutions with permission to install miscellaneous equipment shall hold DFO harmless for any damage to, or loss of miscellaneous equipment installed in state vehicles.

(f) a provision that DFO shall provide training and support services for the fleet information system and charge agencies with permission to install miscellaneous equipment an MIS fee to recover these costs.

(g) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) Agreements permitting agencies or institutions to install miscellaneous equipment in or on state vehicles may be terminated if there is a lack of compliance with the terms of the agreement by the state agency or institution.

R27-4-8. Vehicle Class Differential Upgrade.

(1) For the purposes of this rule, requests for vehicles other than the planned replacement vehicle established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC), that results in an increase in vehicle cost shall be deemed a vehicle class differential upgrade. For example, a vehicle class differential upgrade occurs when, regardless of additional features and/or miscellaneous

equipment:

(a) The replacement vehicle requested by the agency, although within the same vehicle class as the vehicle being replaced, is not the standard replacement vehicle established by DFO for that class.

(b) The agency requests that a vehicle be replaced with a more expensive vehicle belonging to another class. For example, when an agency requests to have a standard 1/2 ton truck replaced with a standard 3/4 ton truck, or a compact sedan be replaced with a mid-size sedan.

(2) Requests for vehicle class differential upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director or the appropriate budget or accounting officer.

(3) All requests for vehicle class differential upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle class differential upgrades shall be approved only when:

(a) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting the demands of changing operational needs for which the planned replacement vehicle is clearly inadequate or inappropriate;

(b) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting safety, environmental, or health or other special needs for drivers or passengers.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a vehicle class differential upgrade.

(5) Agencies obtaining approval for vehicle class differential upgrade(s) at the end of the applicable replacement cycle shall pay to DFO, in full, prior to the purchase of the vehicle, a vehicle class differential upgrade rate designed to recover the difference in cost between the planned replacement vehicle and the actual replacement vehicle when the replacement vehicle is a more expensive vehicle belonging to the same or another class.

(6) Agencies obtaining approval for vehicle class differential upgrade(s) prior to the end of the current vehicle's replacement cycle shall, prior to the purchase of the replacement vehicle, pay to DFO, in full, an amount equal to the difference in cost between the actual replacement vehicle and the planned replacement vehicle plus the amount of depreciation still owed on the vehicle being replaced, less the salvage value of the vehicle being replaced.

R27-4-9. Cost Recovery.

(1) State vehicles shall be assessed a lease fee designed to recover depreciation costs, and overhead costs, including AFV and MIS fees, and where applicable, the variable costs, associated with each vehicle.

(2) Lease rates are calculated by DFO according to vehicle cost, class, the period of time that the vehicle is expected to be in service, the optimum number of miles that the vehicle is expected to accrue over that period, and the type of lease applicable:

(a) A capital only lease is designed to recover depreciation plus overhead costs, including AFV and MIS fees, only. All variable costs, such as fuel and maintenance, are not included in the lease rate.

(i) Capital only leases are subject to DFO approval; and

(ii) Shall be permitted only when the requesting agency provides proof that its staffing, facilities and other infrastructure costs, and preventive maintenance and repair costs are less than,

or equal to those incurred by DFO under the current preventive maintenance and repair services contract.

(iii) DFO shall, upon giving approval for a capital only lease, issue a delegation agreement to each agency.

(b) A full-service lease is designed to recover depreciation and overhead costs, including AFV and MIS fees, as well as all variable costs.

(3) DFO shall review agency motor vehicle utilization on a quarterly basis to identify vehicles in an agency's possession or control that, on the basis of the applicable replacement cycle, are either being under-utilized or over-utilized.

(4) DFO shall provide the results of the motor vehicle utilization review to each agency for use in agency efforts to insure full utilization of all state fleet motor vehicles in its possession or control.

(5) In the event that a vehicle is turned in for replacement as a result of reaching the optimum mileage allowed under the applicable replacement cycle mileage schedule, prior to the end of the period of time that the vehicle is expected to be in service, a rate containing a shorter replacement cycle period that reflects actual utilization of the vehicle being replaced may be implemented for said vehicle's replacement.

(6) In the event that a vehicle is turned in for replacement as scheduled, but is not in compliance with optimum mileage allowed under the applicable replacement cycle, a rate containing a longer replacement cycle period that reflects actual utilization of the vehicle being replaced may be implemented for said vehicle's replacement.

(7) DFO shall begin the monthly billing process when the agency receives the vehicle.

(a) Agencies that choose to keep any vehicle on the list of vehicles recommended for replacement after the receipt of the replacement vehicle, pursuant to the terms of a memorandum of understanding between the leasing agencies and DFO that allows the agency to continue to possess or control an already replaced vehicle, shall continue to pay a monthly lease fee on the vehicle until it is turned over to the Surplus Property Program for resale. Vehicles that are kept after the receipt of the replacement vehicle shall be deemed expansion vehicles for vehicle count report purposes.

(b) Agencies that choose to install miscellaneous equipment to the replacement vehicle, in house, shall be charged a monthly lease fee from date of receipt of the replacement vehicle. If DFO performs the installation, the billing process shall not begin until the agency has received the vehicle from DFO.

R27-4-10. Executive Vehicle Replacement.

(1) Executive Vehicles shall be available to only those with employment positions that have an assigned vehicle as part of a compensation package in accordance with state statute.

(a) Each fiscal year DFO shall establish a standard executive vehicle type and purchase price.

(b) Executives may elect to replace their assigned vehicle at the beginning of each elected term, or appointment period, or as deemed necessary for the personal safety and security of the elected or appointed official.

(c) When the executive leaves office, the vehicle shall be sold in accordance with State Surplus Property Program policies and procedures.

(2) Executives shall have the option of choosing a vehicle other than the standard executive vehicle.

(a) The alternative vehicle selection should not exceed the standard executive vehicle price parameter guidelines.

(b) In the event that the agency chooses an alternative vehicle that exceeds the standard vehicle guidelines, the agency shall pay for the difference in price between the vehicle requested and the standard executive vehicle.

R27-4-11. Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles.

(1) This section implements that part of Item 59 of S.B. 1 of the 2002 General Session which requires the Division of Fleet Operations to "create a capitalization credit program that will allow agencies to divest themselves of vehicles without seeing a future capitalization cost if programs require replacement of the vehicle."

(2) In the event that an agency voluntarily surrenders a vehicle to DFO under the capitalization credit program, the agency shall receive a capital credit equal to: the total depreciation collected by DFO on the vehicle (D), plus the estimated salvage value for the vehicle (S), for use towards the purchase of the replacement vehicle.

(3) Prior to the purchase of the replacement vehicle, the surrendering agency shall pay DFO, an amount equal to the difference between the purchase price of the replacement vehicle and amount of the capital credit.

(4) DFO shall, in the event that an agency voluntarily surrenders a vehicle to DFO, hold the vehicle allocation open, or maintain the capital credit for the surrendering agency, for a period not to exceed the remainder of the fiscal year within which the surrender took place, plus an additional fiscal year.

(5) The surrendering agency's failure to request the return of the vehicle surrendered prior to the end of the period established in R27-4-11(4), above, shall result in the removal of the surrendered vehicle or allotment from the state fleet, the loss of the agency's capital credit, and effect a reduction in state fleet size.

(6) DFO shall not hold vehicle allocations or provide capital credit to an agency when the vehicle that is being surrendered:

(a) has been identified for removal from the state fleet in order to comply with legislatively mandated reductions in state fleet size; or

(b) is identified as a "do not replace" vehicle in the fleet information system; or

(c) is a state vehicle not purchased by DFO; or

(d) is a seasonal vehicle that has already been replaced.

(7) Any agency that fails to request the return of a voluntarily surrendered vehicle prior to the end of the period set forth in R27-4-11(4), above, must comply with the requirements of R27-4-5, Fleet Expansion, to obtain a vehicle to replace the one surrendered.

R27-4-12. Inter-agency Vehicle Reassignment or Reallocation Guidelines.

(1) DFO is responsible for state motor vehicle fleet management, and in the discharge of that responsibility, one of DFO's duties is to insure that the state is able to obtain full utilization of, and the greatest residual value possible for state vehicles.

(2) DFO shall, on a quarterly basis, conduct a review of state fleet motor vehicle utilization to determine whether the vehicles are being utilized in accordance with the mileage requirements contained in the applicable replacement cycles.

(3) DFO shall provide the results of the motor vehicle utilization review to each agency for use in agency efforts to insure full utilization of all state fleet vehicles in its possession or control.

(4) In conducting the review, DFO shall collect the following information on each state fleet vehicle:

(a) year, make and model;

(b) vehicle identification number (VIN);

(c) actual miles traveled per month;

(d) driver and/or program each vehicle is assigned to;

(e) location of the vehicle;

(f) class code and replacement cycle.

(4) Agencies shall be responsible for verifying the

information gathered by DFO.

(5) Actual vehicle utilization shall be compared to the scheduled mileage requirements contained in the applicable replacement cycle, and used to identify vehicles that may be candidates for reassignment or reallocation, reclassification, or elimination.

(6) In the event that intra-agency reassignment or reallocation of vehicles fails to bring vehicles into compliance with applicable replacement cycle mileage schedules within a replacement cycle, DFO may, in the exercise of its state motor vehicle fleet management responsibilities, reassign, reallocate or eliminate the replacement vehicles for vehicles that are chronically out of compliance with applicable replacement cycle mileage requirements to other agencies to ensure that all vehicles in the state fleet are fully utilized.

(7) Agencies required to relinquish vehicles due to a reassignment or reallocation may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review of the reallocation or reassignment made by DFO. However, vehicles that are the subject matter of petitions for review shall remain with the agencies to which they have been reassigned or reallocated until such time as the Executive Director of the Department of Administrative Services or the executive director's designee renders a decision on the matter.

R27-4-13. Disposal of State Vehicles.

(1) State vehicles shall be disposed of in accordance with the requirements of Section 63A-9-801 and Rule R28-1.

**KEY: fleet expansion, vehicle replacement
January 10, 2005**

63A-9-401(1)(a)
63A-9-401(1)(d)(v)
63A-9-401(1)(d)(ix)
63A-9-401(1)(d)(x)
63A-9-401(1)(d)(xi)
63A-9-401(1)(d)(xii)

R27. Administrative Services, Fleet Operations.**R27-6. Fuel Dispensing Program.****R27-6-1. Authority.**

This rule is established pursuant to subsections 63A-9-401(1)(c)(vi), 63A-9-401(1)(e), and 63A-2-201.1(a) which require the Department of Administrative Services, Division of Fleet Operations (DFO) to make rules establishing requirements for fuel management programs, and to create and administer a fuel dispensing services program.

R27-6-2. Participation.

(1) Pursuant to Subsection 63A-9-401(2)(a)(1), each state agency and each institution of higher education shall subscribe to the fuel dispensing services provided by the division.

(2) Pursuant to Subsection 63A-9-401(2)(a)(ii), state agencies may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by DFO.

(3) Counties, municipalities, school districts, special districts and federal agencies may subscribe to fuel dispensing services provided by DFO.

R27-6-3. State Fuel Network.

(1) The state fuel network consists of all fuel sites owned, leased or under the control of the DFO; all state agencies including institutions of higher education; all counties, municipalities, school districts, and special districts that subscribe to the services provided by DFO; and all privately owned fuel sites that participate in the Utah Fuel Card program.

R27-6-4. Cost Recovery.

(1) DFO shall establish, for each fiscal year, fuel rates designed to recover the costs associated with the purchase of fuels and overhead costs associated with running the state fuel dispensing network.

R27-6-5. Authority to Issue a State of Utah Fuel Card.

(1) Except when delegated pursuant to the provisions of R27-6-6, the authority to issue State of Utah Fuel Cards (fuel card) and assign Personal Identification Numbers (PIN) resides exclusively with DFO.

(2) All fueling cards associated with state vehicles shall be documented in the fleet information system. Only one fuel card shall be issued to each vehicle. The PIN issued by the fuel card system to individual employees for their exclusive use is an electronic "signature" of the person to whom it is issued. Use of the fuel card and PIN are restricted to fueling the vehicles to which the fuel card was issued.

(3) Requests for fuel cards and/or PINs shall be documented in the Information Technology Services (ITS) Helpdesk software.

(4) Standard Fuel Network Vehicle and Employee PIN worksheets shall be used when requesting fuel cards and PINs.

(5) DFO shall distribute to each agency a monthly report showing all active fuel cards issued to the respective agencies.

(a) Agencies shall review the monthly reports and notify the State Fuel Technicians in charge of fuel cards of any discrepancies discovered.

(b) State Fuel Technicians shall investigate the discrepancy and make the necessary changes to the fuel card program and the fleet information system.

(6) Agencies may request that a fuel card history report accompany the monthly active fuel card report.

(7) In the event that a fuel card is no longer required due to card expiration, malfunction, loss, misuse, or the vehicle's disposal, the card shall be deleted from the fleet fuel card system and identified as "expired" in the fleet information system. No modifications to the fuel card shall be allowed.

(8) Only State Fuel Technicians have the authority to make

changes to fuel card information and to delete fuel cards from the system.

(9) In the event that a fuel card is either lost or stolen, the operator shall immediately report the loss or theft of the fuel card to DFO.

R27-6-6. Delegation of Authority to Issue Fuel Cards and Assign PINS.

(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of Administrative Services, may delegate the authority to issue fuel cards and assign PINs to other state agencies and institutions by contract or other means authorized by law, if,

(a) the state agency or institution has requested the authority; and

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities.

(2) The delegation shall contain the following:

(a) a precise definition of each function to be delegated;

(b) a clear description of the standards to be met in performing each function delegated, including but not limited to,

(i) a provision that the vehicles for which the fuel cards are being issued, and to which the PINs are being assigned, are or will be capital only lease vehicles; and

(ii) a provision that the vehicle for which the fuel card is being issued, and to which the PIN is being assigned, is allocated or assigned to the agency issuing both the fuel card and the PIN; and

(iii) a provision that the vehicles for which the fuel cards are being issued, and to which the PINs are being assigned, are in DFO's fleet information system.

(c) a provision for periodic administrative audits by either DFO or the Department of Administrative Services; and

(d) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) An agency given the authority to issue fuel cards and assign PINs shall not issue fuel cards for vehicles not in DFO's fleet information system.

(4) An agreement to delegate functions to a state agency or institution may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Administrative Services reveal a lack of compliance with the terms of the agreement by the state agency or institution.

(5) In the event that a fuel card, issued by an agency other than DFO is either lost or stolen, the operator shall immediately report the loss or theft of the fuel card to the issuing agency.

R27-6-7. Authorized Use of a State of Utah Fuel Card.

(1) The following procedures shall be followed when purchasing fuel from either a state run or a participating commercial public fueling site:

(a) Verify that the vendor is a participant in the State Fuel Network Program; and

(b) Follow the procedures that apply to the particular site and enter the correct information when prompted in order to purchase fuel.

(2) Except as provided in paragraph 3 of this section, the fuel card shall only be used to purchase:

(a) Fuel; and

(b) Fluids, car washes and minor miscellaneous items for state vehicles whose value, taken together, shall not exceed the monthly monetary limits determined by DFO.

(3) Agency requests for a fuel card for use by a supervisor for emergency purposes, or for use with small miscellaneous equipment shall be approved provided the agency:

(a) Represents that they have a reconciliation or fuel

transaction auditing process in place for the review of miscellaneous transactions in order to prevent theft, abuse and fraud relating to the use of the card; and

(b) Cooperates with DFO to insure all fuel dispensed using fuel cards not assigned to specific vehicles is properly documented in the fleet information system through the use of a manual fuel ticket.

R27-6-8. Reimbursements.

(1) Reimbursements for the use of the operator's personal funds in order to purchase fuel and/or other services shall be granted:

(a) when the operator has verified that the vendor is a participant in the State Fuel Network Program and at the time when fuel was being purchased, there was a problem with either the PIN or card reader that could not be repaired prior to purchase; or

(b) when the operator purchases from a vendor that is not a participant in the State Fuel Network and there is no participating vendor in the immediate vicinity of the non-participating vendor.

(c) at the discretion of the fuel network manager when circumstances indicate that the use of personal funds was necessary.

R27-6-9. Meter Rejects.

(1) Drivers of state vehicles are required to enter the correct mileage, excluding tenths of miles, when using the fuel card assigned to the vehicle.

(2) In the event that the driver makes an error in the mileage update, the driver or the agency's contact shall provide designated DFO personnel with a correct mileage update.

(3) In the event that an individual operating a state vehicle inputs a blatant error meter reject, DFO will impose on the agency, an one time charge (OTC) in accordance with applicable rate schedule. A blatant error meter reject occurs when the operator enters the same number as the mileage (e.g., 000000) or enters a fictitious number that is not close to the current odometer reading (e.g., 123456). DFO may, upon request by the agency, allow five business days during which to investigate a blatant error. If the blatant error is deemed to have been the result of equipment failure, DFO will not impose the OTC.

(4) Agency contacts shall, within five business days of the request, respond to a DFO request to investigate a meter reject. In the event that the agency fails to respond or make arrangements for an extension of the time period in which to investigate the meter reject, DFO will impose an OTC in accordance with the applicable rate schedule, upon the agency.

R27-6-10. Bulk Fuel Purchases.

(1) For all fuel sites for which DFO purchases fuel:

(a) The authority to purchase bulk fuel resides exclusively with DFO.

(b) All fuel stored at, or contained in, fuel sites for which DFO purchases fuel shall be the property of the State of Utah, DFO.

R27-6-11. Fuel Site Maintenance.

(1) All fuel sites in the state fuel network for which DFO purchases fuel shall be managed by the DFO. All fuel sites for which DFO does not purchase fuel shall be managed by the agency, subscribing county, municipality, school district, or special district that has ownership, possession, or control of the site.

(2) Except for privately owned, leased or controlled fuel sites, maintenance at all other fuel sites in the State Fuel Network, shall be performed only by personnel of the DFO and/or their authorized agents.

(3) Only DFO personnel and/or authorized agents shall be

authorized to disconnect power or communication from any fueling equipment, including, but not limited to, tanks and monitoring equipment.

(4) Personnel of agencies, subscribing counties, municipalities, school districts and special districts at fuel sites shall not perform, or give authorization to perform, any site maintenance.

(c) Personnel of agencies, subscribing counties, municipalities, school districts and special districts at fuel sites shall report any maintenance concerns to the DFO.

(d) Personnel of agencies, subscribing counties, municipalities, school districts and special districts at fuel sites shall provide DFO, its employees and/or authorized agents, 24-hour access to fuel sites for any maintenance or service needs.

(4) In the event that a fuel site operated by an agency, subscribing county, municipality, school district or special district is not part of the Utah Fuel card system, it shall be the responsibility of the fuel site personnel to keep records of all following information for entry into the fleet information system:

(a) Correct odometer reading;

(b) Operators' PIN;

(c) Vehicle number or license plate number;

(d) Other information as required by DFO.

R27-6-12. Underground Fuel Storage Tanks.

(1) DFO shall be responsible for coordinating the installation of state owned underground storage tanks and the upgrading, retrofitting, repair or removal of existing underground storage tanks located on or about property, easements or rights of way owned, leased or otherwise controlled by agencies.

(2) DFO shall be responsible for paying for all operations related to the installation, upgrading, retrofitting, repair or removal of underground fuel storage tanks listed in its Underground Storage Tank Inventory.

(3) The costs associated with all operations related to the installation, repair or removal of Underground Fuel Storage Tanks that are not contained in DFO Underground Storage Tank Inventory shall be the responsibility of the agency having ownership, possession or control of the site in which the storage tank is found.

(4) All agency fuel site personnel shall provide DFO, its employees and/or authorized agents, 24-hour access to fuel sites for any storage tank maintenance or service needs.

R27-6-13. Abuse and Neglect of Fueling Equipment.

Damage to fuel equipment that results from the abuse or neglect of an operator shall be the responsibility of the agency employing the operator at the time of the incident.

R27-6-14. Delegation of Authority to Manage and Maintain Fuel Storage Tanks.

(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of Administrative Services, may delegate the authority to manage and maintain fuel storage tanks holding fuel that is not for use in motor vehicles, to other agencies or institution, by contract or other means authorized by law, if:

(a) the state agency or institution has requested the authority; and

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities.

(2) The delegation shall contain the following:

(a) a precise definition of each function to be delegated;

(b) a clear description of the standards to be met in performing each function delegated; and

(c) a provision for periodic administrative audits by either

DFO or the Department of Administrative Services; and

(d) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) An agreement to delegate functions to a state agency or institution may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Administrative Services reveal a lack of compliance with the terms of the agreement by the state agency or institution.

**KEY: fuel dispensing
January 10, 2005**

**63A-9-401(1)(c)(vi)
63A-9-401(1)(e)
63A-2-201.1(a)**

R58. Agriculture and Food, Animal Industry.**R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.****R58-1-1. Authority.**

A. Promulgated under the authority of Title 4, Chapter 31 and Subsections 4-2-2(1)(c)(i), 4-2-2(1)(j).

B. Intent: It is the intent of these rules to eliminate or reduce the spread of diseases among livestock by providing standards to be met in the movement of livestock within the State of Utah, INTRASTATE, and Import movements, INTERSTATE, of livestock, poultry and other animals.

R58-1-2. Definitions.

A. "Approved Livestock Market" - A livestock market which meets the requirements as outlined in 9 CFR 78, January 1, 2002 edition, Title 4, Chapter 30, and Rule R58-7.

B. "Livestock Market Veterinarian" - A Utah licensed and accredited veterinarian appointed by the Department of Agriculture and Food to work in livestock markets in livestock health and movement matters.

C. "Official Random Sample Test, 95/10" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

Less than 100 head -- Test 25

100 - 200 head ----- Test 27

201 - 999 head ----- Test 28

1,000 and over ----- Test 29

D. "Official Random Sample Test, 95/5" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least five percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

Less than 100 head -- Test 45

100 - 200 head ----- Test 51

201 - 999 head ----- Test 57

1,000 and over ----- Test 59

E. "Qualified Feedlot" - A feedlot approved by the Utah Department of Agriculture and Food to handle INTRASTATE heifers, cows or bulls which originate from Utah herds. These animals shall be confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter.

F. "Reportable Disease List" - A list of diseases and conditions developed by the state veterinarian that may affect the health and welfare of the animal industry of the state, reportable to the state veterinarian.

G. "Test Eligible Cattle and Bison" - All cattle or bison six months of age or older, except:

1. Steers, spayed heifers;

2. Official calfhood vaccinates of dairy breeds under 20 months of age and beef breeds under 24 months of age which are not parturient, springers, or post parturient;

3. Official calfhood vaccinates, dairy or beef breeds of any age, which are Utah Native origin.

4. Utah Native Bulls from non-infected herds.

H. "Official Calfhood Vaccinate" - Female cattle of a dairy breed or beef breed vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited Veterinarian with an approved dose of RB51 Vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

I. "Exposed Animal", "Reactor", "Suspect", as defined in the United States Department of Agriculture; Animal and Plant Health Inspection Service and Veterinary Services Brucellosis Eradication Uniform Methods and Rules and 9 CFR 78.

R58-1-3. Intrastate Cattle Movement - Rules - Brucellosis.

A. The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

B. Utah Department of Agriculture and Food Livestock Inspectors will help regulate Intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

R58-1-4. Interstate Importation Standards.

A. No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from Veterinary Services Division, United States Department of Agriculture, Animal and Plant Health Inspection Service, and Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture and Food.

B. Certificate of Veterinary Inspection. An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals and poultry. A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the livestock sanitary official of the state of origin.

C. Permits. Livestock, poultry and other animal import permits may be issued by telephone to the consignor, a consignee or to an accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection, and may be obtained from the Utah Department of Agriculture and Food, 350 North Redwood Road, PO Box 146500, Salt Lake City, Utah 84114-6500, Phone (801) 538-7164; after hours and weekends, (435) 882-0217; (801) 773-5656.

R58-1-5. Cattle and Bison.

A. Import Permit and Certificate of Veterinary Inspection.

1. No cattle or bison may be imported into Utah without an import permit issued by the Department of Agriculture and Food. A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state. All cattle and bison must carry some form of individual identification, 1) a brand registered with an official brand agency, or 2) an ear tag or a registration tattoo. Identification must be listed on the Certificate of Veterinary Inspection. Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection. The import permit number must be listed on the Certificate of Veterinary Inspection. This includes exhibition cattle. Commuter cattle are exempt as outlined in Subsection R58-1-5(B).

2. The following cattle are exempted from (1) above:

a. Cattle consigned directly to slaughter at a state or federally inspected slaughter house; and

b. Cattle consigned directly to a State or Federal approved Auction Market.

c. Movements under Subsections R58-1-5(A)(2)(a), and R58-1-5(A)(2)(b) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.

B. Commuter Cattle. Commuter, temporary grazing, cattle may enter Utah or return to Utah after grazing if the following conditions are met.

1. A Certificate of Veterinary Inspection or a commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for current season if the following conditions are met:

a. All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, May 6, 1992 and approved by cooperating States.

b. Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.

2. No quarantined, exposed or reactor cattle shall enter Utah.

C. Brucellosis. Prior to importation of cattle or bison into Utah the following health restrictions must be met.

1. Bison heifers of vaccination age between four and 12 months must be officially vaccinated for brucellosis prior to entering Utah. All female bison cattle imported after July 1, 1984, must have a legible brucellosis calfhood vaccination tattoo to be imported or sold within the State of Utah, unless going directly to slaughter, or qualified feedlot to be sold for slaughter, or to an approved livestock market to be sold for slaughter or for vaccination.

a. Bison heifers of vaccination age may be vaccinated upon arrival by special permit.

2. Test eligible cattle imported from states designated as brucellosis free, that are acquired directly from the farm of origin and moving directly to the farm of destination are not required to be tested for brucellosis prior to movement.

3. Test eligible cattle imported from states designated as brucellosis free, that are acquired through "trading channels", or any "non-farm of origin source" must be tested negative for brucellosis within 30 days prior to entry.

4. All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.

5. Exceptions to the above testing requirements include Test Eligible Cattle imported to Utah and moving directly to:

- a. an approved livestock market, or
- b. to a "qualified feedlot", or
- c. for immediate slaughter to a slaughtering establishment where federal or state inspection is maintained.

A brand inspection certificate, which indicates the intended destination is required for cattle entering the state under these provisions.

6. No reactor cattle or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to a slaughtering establishment where recognized state or federal meat inspection is maintained. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

7. Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to a slaughtering establishment where state or federal inspection is maintained or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

8. Entry of cattle which have been adult vaccinated is not permitted unless they are for immediate slaughter where state or federal inspection is maintained.

D. Tuberculosis.

A negative test is required within 60 days prior to shipment for all breeding cattle originating within a quarantined area or from reactor or exposed herds.

E. Scabies.

No cattle affected with, or exposed to scabies shall be trailed, driven, shipped or otherwise moved into Utah. Cattle from a county where scabies have been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection; also the approved vat number and location.

F. Splenic or Tick Fever. No cattle infested with ticks, *Margaropus annulatus*, or exposed to tick infestations shall be shipped, trailed, or driven, or otherwise imported into the State of Utah for any purpose.

G. Exhibitions, Fairs, and Shows.

1. Dairy cattle and cattle for breeding purposes imported for exhibition or show purposes only to be returned to state of origin may enter provided:

a. The cattle are accompanied by the proper Certificate of Veterinary Inspection and import permit.

b. The cattle must have negative T.B. test within 60 days.

c. The cattle must have a negative brucellosis test within 30 days prior to entrance. Vaccinates under age are acceptable.

H. Trichomoniasis.

All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over nine months of age for Trichomoniasis prior to entry, with some exceptions.

R58-1-6. Horses, Mules, and Asses.

Horses, mules and asses may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection. The certificate must state that the equine animals described were examined on the date indicated and found free from symptoms of any infectious or communicable disease such as CEM, Contagious Equine Metritis, and EIA, Equine Infectious Anemia. The Certificate of Veterinary Inspection must show a negative coggins test within one year previous to the time the certificate was issued. Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-22 or 4-24-23 and Section R58-9-4 is required for re-entering Utah.

R58-1-7. Swine.

A. Stocking, Feeding, and Breeding swine. Swine for stocking, breeding, feeding or exhibition may be shipped into the state if the following requirements are met:

1. Import Permit and Certificate of Veterinary Inspection - All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they are clinically free from infectious or contagious disease or exposure and have not been fed raw garbage. The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro chips or other permanent means. An import permit issued by the Department of Agriculture and Food must accompany all hogs, including feeder hogs imported into the state.

2. Test Status. The Certificate of Veterinary Inspection must list the brucellosis, and pseudorabies test status of the animals.

3. Quarantine - All swine shipped into the state for feeding or breeding purposes are subject to an 18 day quarantine beginning with the date of arrival at destination. The department shall be notified by the owner of date of arrival. Release from quarantine shall be given by the department only when satisfied that health conditions are satisfactory.

4. Brucellosis - All breeding and exhibition swine over the age of three months shipped into Utah must pass a negative test for brucellosis within 30 days prior to movement into the state

or originate from a validated brucellosis free herd. A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

5. Pseudorabies - All breeding, feeding and exhibition swine must pass a negative pseudorabies test within the last thirty days unless they originate from a recognized qualified pseudorabies free herd. However, feeder swine may come into the state from a herd of origin in a Stage III, IV, or V state as classified by the Official Pseudorabies Eradication Program Standards 6-19-91. A 30 day retest is required on all breeding and exhibition swine brought into the state. Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 1-71.

6. Erysipelas - Purebred and breeding swine shall be immunized with erysipelas bacterin not less than 15 days prior to importation.

7. Leptospirosis - All breeding and exhibition swine over four months of age shall have passed a negative leptospirosis test within 30 days of entry, or be part of an entire negative herd test within the previous 12 months or be vaccinated for leptospirosis at least 15 days prior to entry. Herd and vaccination status must be stated on the Certificate of Veterinary Inspection.

8. PRRS -- All breeding and exhibition swine 3 months of age and over must be tested negative for Porcine Reproductive and Respiratory Syndrome (PRRS) virus within 30 days prior to entry to Utah.

B. Immediate Slaughter

Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious disease in compliance with 9 CFR 71.

Exhibition swine that have attended livestock shows in Utah should not be returned to Utah farms but should go directly to slaughter.

C. Prohibition of Non-domestic and Non-native Suidae and Tayassuidae.

Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies. They are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above vaccination and testing requirements.

R58-1-8. Sheep.

A. All sheep imported must be accompanied by a Certificate of Veterinary Inspection certifying the sheep are free of communicable diseases or exposure.

1. Blue Tongue. No sheep infected with or exposed to blue tongue may enter Utah. No sheep from an area under quarantine because of blue tongue may be transported into Utah without obtaining an import permit and a Certificate of Veterinary Inspection certifying that the sheep have originated from a flock free of blue tongue and have been vaccinated against blue tongue at least 30 days prior to entry.

2. Foot Rot. Sheep must be thoroughly examined for evidence of foot rot. The Certificate of Veterinary Inspection must certify that the sheep were examined and are free from foot rot.

3. A prior entry permit must be obtained by calling the Utah Department of Agriculture and Food, 801-538-7164.

4. Scrapie. Sheep entering Utah must comply with federal Scrapie identification requirements as listed in CFR 9 Part 79, January 1, 2002 edition. Sheep from Scrapie infected, exposed, quarantined or source flocks may not be permitted to enter the state unless a flock eradication and control plan, approved by the State Veterinarian in Utah, has been implemented.

R58-1-9. Poultry.

All poultry imported into the state shall comply with Title 4, Chapter 29 and R58-6 governing poultry which requires a prior permit from the Department of Agriculture and Food. This number can be called for information concerning permits: (801) 538-7164.

R58-1-10. Goats and Camelids.

A. Goats being imported into Utah must meet the following requirements:

1. Dairy goats must have a permit from the Department of Agriculture and Food (phone 801-538-7164) and, an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and tuberculosis free area. They must be free of communicable diseases or exposure thereto; there must be no evidence of Caseous Lymphadenitis (abscesses).

2. Meat type goats must have a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

3. Exemption - Goats for slaughter may be shipped into Utah directly to a slaughtering establishment or to a state and federally approved auction market for sale to such slaughtering establishment. However, they must be accompanied by a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis, abscesses.

B. Camelids shall be accompanied by:

1. a Certificate of Veterinary Inspection;
2. Negative TB test within 60 days;
3. Negative Brucellosis within 30 days.

R58-1-11. Psittacine Birds.

No Psittacine birds shall be shipped into the State of Utah unless a permit is obtained from the Department prior to importation. Request for a permit must be made by an accredited veterinarian certifying that the birds are free from any symptoms of any infectious, contagious or communicable disease. The request must also state the number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination, all listed on the Certificate of Veterinary Inspection.

R58-1-12. Dogs and Cats.

All dogs, cats and ferrets over four months of age shall be accompanied by an official Certificate of Veterinary Inspection, showing vaccination against rabies within 12 months. The date of vaccination, name of product used, and expiration date must be given.

R58-1-13. Game and Fur-Bearing Animals.

A. Contagious or Communicable Disease. No game or fur bearing animals will be imported into Utah without a prior permit being obtained from the Department. Each shipment shall be accompanied by an official Certificate of Veterinary Inspection certifying they are free from all contagious and communicable diseases and exposure thereto.

B. Mink.

All mink entering Utah shall have originated on ranches or herds where virus enteritis has not been diagnosed within the past three years.

C. Elk brought into the state under regulations governing elk farming and hunting shall meet the importation requirements of R58-18-11 and 12.

R58-1-14. Zoo Animals.

The entry of common zoo animals, as monkeys, apes,

baboons, rhinoceros, giraffes, zebras, elephants, to be kept in zoos, or shown at exhibitions is authorized when a permit has been obtained from the Department. Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2156.

R58-1-15. Wildlife.

It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13. Fish and Wildlife Services, 1596 West North Temple, Salt Lake City, Utah 84116, (801) 538-4887. All wildlife imports shall meet the same Department requirements as the domestic animals.

R58-1-16. Duties of Carriers.

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

A. Sanitation. All railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry or other animals shall be maintained in a clean, sanitary condition.

B. Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the Department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry or other animals.

C. Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the State and Federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying attendant in charge of the animals.

KEY: disease control

January 18, 2005

4-31

Notice of Continuation February 13, 2002

4-2-2(1)(j)

R58. Agriculture and Food, Animal Industry.**R58-2. Diseases, Inspections and Quarantines.****R58-2-1. Authority.**

Promulgated Under the Authority of Sections 4-31-15 and 4-31-17 and Subsection 4-2-2(1)(c)(ii).

R58-2-2. Reportable and Quarantinable Animal Diseases.

A. Reporting of Diseases. It shall be the responsibility of veterinary diagnostic laboratories, veterinary practitioners, livestock inspectors, and livestock owners to report immediately by phone or written statement to the Department of Agriculture and Food any of the diseases listed on the Utah Department of Agriculture and Food Reportable Disease list, available at the Utah Department of Agriculture and Food, Division of Animal Health, PO Box 146500, 350 North Redwood Road, Salt Lake City, UT 84114-6500.

1. All swine moving within the State of Utah shall be identifiable to determine the farm of origin as per 9 CFR, 1.71.19, January 1, 2002, edition which is hereby adopted and is incorporated by reference within this rule.

2. All sheep moving within the State of Utah shall, upon change of ownership, comply with federal Scrapie identification requirements as listed in 9 CFR Part 79, January 1, 2002, requiring official identification to determine the farm of origin.

3. Sheep from Scrapie infected, exposed, quarantined or source flocks may not be permitted to move into or within the state, except to slaughter, unless a flock eradication and control plan, approved by the State Veterinarian in Utah, has been implemented in the flock where the diseased animal resides.

4. Any live scrapie-positive, suspect, or high-risk sheep of any age and any sexually intact exposed sheep of more than one year of age shall be required to possess official individual identification as listed in 9 CFR Part 79, January 1, 2002.

B. Quarantines. The Department of Agriculture and Food or its agent may issue quarantines on:

1. Any animal infected with diseases listed on the reportable disease list or any infectious or dangerous entity which is determined to be a threat to other animals or humans.

2. Any animal which it believes may jeopardize the health of other animals, or humans.

3. Any area within the State of Utah to prevent the spread of infectious or contagious diseases.

a. Quarantines shall be deemed issued to owners or caretakers of animals affected with or exposed to infectious, contagious, or communicable diseases by serving an official notice of quarantine to the owner or caretaker in person, by phone, by public meetings, or by registered mail to his last known address.

b. On and after the effective date of quarantine no animals shall be moved or allowed to be moved from or onto the quarantined premises without the owner or caretaker of the quarantined livestock having first obtained a written permit from the Utah Department of Agriculture and Food or its authorized agent to move the animals.

c. Quarantines shall be released upon compliance with Section 4-31-17; as well as with 9 CFR 71.2, January 1, 2002, edition; and the Utah Health Code Sections 26-6, 19-4 and 19-5.

KEY: quarantines**February 1, 2005****Notice of Continuation October 30, 2001****4-31-15****4-31-17****4-2-2(1)(c)(ii)**

R58. Agriculture and Food, Animal Industry.**R58-7. Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons.****R58-7-1. Authority.**

A. Promulgated under authority of Section 4-30-3 and Section 4-2-2.

B. It is the intent of these rules to provide uniformity and fairness in the marketing of livestock within the state, whether sold through regularly established livestock markets or other types of sales.

R58-7-2. Definitions.

A. "Commissioner" means the commissioner of Agriculture and Food.

B. "Livestock" means cattle, domestic elk, swine, equines, sheep, goats, camelids, ratites, and bison.

C. "Representative" means a dealer licensed in Utah under Section 4-7-7 who is a resident of this state, or who is a representative of, or who in any capacity conducts business with a livestock auction market licensed under Section 4-30-4, which does business with an in state or out of state satellite video livestock auction market.

D. "Satellite video livestock auction market" means a place or establishment or business conducted or operated for compensation or profit as a public market where livestock or other agricultural related products located in this state are sold or offered for sale at a facility within or outside the state through the use of an electronically televised or recorded media presentation, which is, or can be exhibited at a public auction.

E. "Livestock market" means a public market place consisting of pens or other enclosures where all classes of livestock or poultry are received on consignment and kept for subsequent sale, either through public auction or private sale.

F. "Livestock dealer" means a person engaged in the business of purchasing livestock for immediate resale or interstate shipment for immediate resale.

R58-7-3. Livestock Markets.

A. Standards for Approved and Non-approved Markets. The operator of a livestock market shall maintain the following standards in order to obtain, retain or renew a livestock market license:

1. Follow procedures outlined in Section 4-30-4, and all state and federal laws and regulations pertaining to livestock health and movement.

2. Conduct all sales in compliance with the provisions of Utah laws and rules pertaining to livestock health and movement.

3. Furnish the Department with a schedule of sale days, which have been previously approved by the Commissioner of Agriculture and Food, giving the beginning hour.

4. Maintain records of animals in the market in accordance with United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Brucellosis Eradication Uniform Methods and Rules, Part II, U, 2 to 4. Records must be retained for 2 years.

5. Maintain the identity of ownership of all animals as set forth in Section 4-24-20, and these rules. All test eligible females and breeding bulls two years of age and over shall be backtagged for individual identification as outlined in 9 CFR 71.18 71.19 and 9 CFR 79, January 1, 2001, edition. The tags are not to be removed in trading channels.

6. Permit authorized state or federal inspectors to review all phases of the livestock market operations including, but not limited, to records of origin and destination of livestock handled by the livestock market.

7. Provide adequate space for pens, alleyways, chutes, and sales ring; cover sales ring with a leak-proof roof.

8. Have floors in all pens, alleyways, chutes, and sales ring constructed in such a manner as to be easily cleaned and properly drained in all types of weather and to be easily maintained in a clean and sanitary condition.

9. Maintain all alleyways, pens, chutes, and sales rings in a clean and sanitary manner.

10. Furnish and maintain one or more chutes (in addition to the loading chute) at a convenient and usable place in a covered area, suitable for restraining, inspecting, examining, testing, tagging, branding and other treatments and procedures ordinarily required in providing livestock sanitary or health service at markets. Furnish personnel as required to assist Department or federal inspectors.

11. Provide specially designated pens or a provision for yarding for diseased animals infected with or exposed to brucellosis, tuberculosis, scabies, anaplasmosis, vesicular disease, pseudorabies, hog cholera, sheep foot rot, or other contagious or infectious disease.

12. Provide adequate facilities and service at a reasonable cost for cleaning and disinfecting cars, trucks and other vehicles which have been used to transport diseased animals as directed by the Department of Agriculture and Food or its authorized representative.

13. Do not release any diseased animal or animal exposed to any contagious, infectious or communicable disease from a livestock market until it has been approved for movement by the Department or its authorized representative.

14. Do not release any livestock from the market which have not complied with Utah laws and rules.

B. Additional Standards for Approved Markets.

1. Weigh each reactor individually and record reactor tag number, tattoo or other identifying marks on a separate weigh ticket, and record sales price per pound and net return after deducting expenses for required handling of such reactor. Restrict sale of all reactors to a slaughtering establishment where federal or state inspection is maintained.

2. Reimburse the Department monthly an amount equal to expenses incurred in providing a veterinarian at the livestock market.

3. Provide specially designated pens or a provision for yarding for animals classified as reactors, exposed, suspects or "S" branded.

4. Provide suitable laboratory space at the market as agreed between the market and the livestock market veterinarian for the conducting of brucellosis and other necessary tests.

C. Veterinary Medical Services. These services, fees, and collection procedures will be outlined and negotiated between the Department of Agriculture and Food, Livestock Auctions, and Veterinarians in contract agreements signed by each party. Any procedures, payments fees and collection methods done outside the contract terms will be worked out between the livestock market and the veterinarian.

D. Denial, Suspension or Cancellation of Registration. The Department may, after due notice and opportunity for a hearing to the livestock market involved, deny an application for registration, or suspend or cancel the registration when the Department is satisfied that the market has:

1. Violated state statutes or rules governing the interstate or intrastate movement, shipment or transportation of livestock, or

2. Made false or misleading statements in their application for licensing, or false or misleading statements as to the health or physical conditions of livestock regarding official test results or status of the herd of origin, or

3. Knowingly sold for dairy or breeding purposes cattle which were affected with a communicable disease, or

4. Demonstrated their inability or unwillingness to carry out the record keeping requirements contained in this rule, or

5. Failed to comply with any law or rule pertaining to

livestock health or movement, or

6. Operated as a livestock market without proper licensing.

E. Relating to temporary livestock market:

Temporary Livestock Market Licensees shall not be required to abide by the provisions in R58-7-3A (1,4,5,7-14), R58-7-3B (1-4), and R58-7-3C.

R58-7-4. Temporary Livestock Sale License.

A. A temporary livestock sales license shall be required for each sale where:

1. Livestock is offered for public bidding and sold on a yardage, commission or percentage basis.

2. Sales are conducted by or for a person at which livestock owned by such person are sold on his own premises, see R58-7-3 and 4.

3. Sales are conducted for the purpose of liquidation of livestock by a farmer, dairyman, livestock breeder or feeder.

4. Sales conducted by non-profit breed or livestock associations or clubs:

a. It is not the intent of this rule to require a bond from non-profit breed or livestock associations or clubs, or from liquidation sales if they conduct sales themselves and do not assume any financial responsibility between the seller and the buyer. However, if such sales are conducted by outside or professional management a license and either a bond, trust fund agreement or letter of credit will be required.

5. Other sales may be approved by the Department of Agriculture and Food.

B. A temporary license shall not be required for:

1. Sales conducted by Future Farmers of America or 4H Club groups.

2. Sales conducted in conjunction with state, county, or private fairs.

C. The Department shall be notified 10 days prior to all such sales.

D. A temporary livestock sales license shall be issued when the Department finds:

1. That an application as approved by the Department has been received, along with the payment of a \$10.00 license fee.

2. That the applicant has filed with the Department where applicable a bond as required by the Department or in accordance with the Packers and Stockyards Act (7 U.S.C. 181 et seq.), except that a letter of credit or a trust fund agreement, as approved by the Department, may replace the bonding requirements.

R58-7-5. Dealers.

A. Dealer Licensing and Bonding:

No person shall operate as a livestock dealer in the state without a license and bond in accordance with Title 4, Chapter 7.

1. Upon receipt of a proper application and payment of a license fee in the amount of \$25.00 and meeting current bonding requirements the Department will issue a license allowing the applicant to operate as a livestock dealer through December 31 of each year.

2. The Department, after due notice and opportunity for hearing to the dealer involved, may deny an application for license, suspend or cancel the license when the Department is satisfied that the applicant or dealer has:

a. Violated state statutes or rules governing the interstate or intrastate movement, shipment, or transportation of livestock, or

b. Made false or misleading statements in their application for licensing, or false or misleading statements as to the health or physical conditions of livestock regarding official test results or status of the herd of origin, or

c. Knowingly sold for dairy or breeding purposes cattle which were affected with a communicable disease, or

d. Demonstrated their inability or unwillingness to carry out the record keeping requirements contained in this rule, or

e. Failed to comply with any law or rule pertaining to livestock health or movement, or

f. Operated as a dealer without meeting proper licensing and bonding requirements.

B. Record Keeping.

1. All livestock dealers must keep adequate records to allow accurate trace back of all livestock to the prior owner Section 4-7-9.

2. Dealers shall permit the Department or its authorized representative to review all phases of the livestock dealer operations including, but not limited to, records of origin and destination of livestock handled by the livestock dealer.

3. Dealers shall retain above records for a period of two years.

R58-7-6. Responsibilities of a Bonded and Licensed Weighperson.

A. Weighperson operator to be competent, licensed and bonded.

1. Stockyard owner, market agencies, and dealers shall employ only competent, licensed and bonded persons of good character and known integrity to operate scales for weighing livestock for the purpose of purchase or sale. Any person found to be operating scales incorrectly, carelessly, in violation of instructions, or in such manner as to favor or injure any party or agency through incorrect weighing or incorrect weight recording shall be removed from his weighing duties.

2. The primary responsibility of a weigher is to determine and accurately record the weight of a livestock draft without prejudice or favor to any person or agency and without regard for livestock ownership, price condition, fill, shrink, or other considerations. A weigher shall not permit the representations or attitudes of any persons or agencies to influence his judgment or action in performing his duties.

3. Unused scale tickets, or those which are partially executed but without a printed weight value, shall not be left exposed or accessible to unauthorized personnel. All such tickets shall be kept under lock when the weigher is not at his duty station.

4. Accurate weighing and correct weight recording require that a weigher shall not permit the operations to be hurried to the extent that inaccurate weights or incorrect weight records may result. Each draft of livestock must be weighed accurately to the nearest minimum weight value that can be indicated or recorded. Manual operations connected with balancing, weighing, and recording shall be performed with the care necessary to prevent damage to the accurately machined and adjusted part of weigh-beams, poses, and printing devices.

5. Livestock owners, buyers, or others having legitimate interest in a livestock draft must be permitted to observe the balancing, weighing, and recording procedures, and a weigher shall not deny them that right or withhold from them any information pertaining to the weight of that draft. He shall check the zero balance of the scale or reweigh a draft of livestock when requested by such parties.

B. Balancing the empty scale.

1. The empty scale shall be balanced each day before weighing begins, and maintained in correct balance while weighing operations continue. The zero balance shall be verified at intervals of not more than 15 drafts or 15 minutes, whichever is completed first. In addition, the zero balance of the scale shall be verified whenever a weigher resumes weighing duties after an absence from the scale and also whenever a load exceeding half the scale capacity or 10,000 pounds (whichever is less) has been weighed and is followed by a load of less than 1,000 pounds, verification to occur before the weighing of the load of less than 1,000 pounds.

2. The time at which the empty scale is balanced or its zero balance verified shall be recorded on scale tickets or other permanent records. Balance tickets must be filed with other scale tickets issued on that date.

3. Before balancing the empty scale, the weigher shall assure himself that the scale gates are closed and that no persons or animals are on the scale platform or in contact with the stock rack, gates, or platform. If the scale is balanced with persons on the scale platform, the zero balance shall be verified whenever there is a change in such persons. When the scale is properly balanced and ready for weighing, the weigher shall so indicate by an appropriate signal.

C. Weighing the load.

1. Before weighing a draft of livestock, the weigher shall assure himself that the entire draft is on the scale platform with the gates closed and that no persons or animals off the scale are in contact with the platform, gates or stock rack.

D. Sale of livestock by weight.

All livestock sold by weight through a satellite video auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the Department of Weights and Measures in the manner prescribed by law.

R58-7-7. Satellite Video Livestock Auction Market.

1. Before entering into business as or with a satellite video livestock auction market and annually, on or before January 1, each market or representative shall file an application for a license to transact business as or with a satellite video livestock auction market with the commissioner on a form prescribed by the commissioner. The application must show:

- a. the nature of the business for which a license is desired;
- b. the name of the representative applying for the license;
- c. the name and address of the proposed satellite video auction or the name and address of the satellite video auction the representative proposes to transact business with; and
- d. other information the commissioner may require as listed in Subsection 4-7-6.

2. The application for a license or for a renewal for a license must be accompanied by:

- a. a license fee in accordance with Section 4-30-4, determined by the department pursuant to Subsection 4-2-2(2).
- b. evidence of proper security bonding as required in Subsection 4-30-4(3) for the satellite video auction and Section 4-7-7 for the representative.
- c. a schedule of fees and commissions that will be charged to owners, sellers, or their agents; and
- d. other information the commissioner may require as listed in Section 4-7-6.

3. Each satellite video auction will be considered as a temporary livestock sale unless licensed under this chapter as a satellite video auction market. Sales operated by a representative will be required to make application as designated in R58-7-4.

4. A copy of each and any contract between the representative and the satellite video auction market with which the representative proposes to transact business or a contract with the proposed satellite video auction market must be supplied to the department.

The contract must include a provision authorizing the commissioner or the commissioner's designee to have access to the books, papers, accounts, financial records held by financial institutions, accountants or other sources; and other documents relating to the activities of the satellite video livestock market and requiring the satellite video auction market to make such documents reasonably available upon the request of the commissioner or the commissioner's designee. If the contract between a representative and the satellite video auction market

is terminated, rescinded, breached, or materially altered, the representative and the satellite video auction market shall immediately notify the commissioner. Failure to notify will be deemed failure to keep and maintain suitable records and be deemed to be a false entry or statement of fact in application filed with the department. (Section 4-7-11.)

R58-7-8. Livestock Market Committee.

A. Hearing on License Application; Notice of Hearing.

1. Upon filing of an application as a satellite video auction livestock market, the chairman of the Department of Agriculture and Food's Livestock Market Committee shall set a time and place for a hearing to review the application and determine whether a license will be issued.

2. Upon filing of an application as a representative of a satellite video auction market, the chairman of the Department of Agriculture and Food's Livestock Market Committee may elect to hold a hearing to review the application and determine whether a license will be issued.

B. Guidelines delineated for decision on application shall be in accordance with 4-30-6 and shall apply to the livestock auction market and the satellite video livestock auction market.

KEY: livestock

February 12, 2002

Notice of Continuation February 1, 2005

4-2-2

4-30-3

R68. Agriculture and Food, Plant Industry.

R68-3. Utah Fertilizer Act Governing Fertilizers and Soil Amendments.

R68-3-1. Authority.

Promulgated under authority of Section 4-2-2 and 4-13-4.

R68-3-2. Registration of Products.

A. All fertilizer or soil amendment products distributed in Utah shall be officially registered with the Utah Department of Agriculture and Food.

1. Application for registration shall be made to the Department upon forms prescribed and provided by the Department and shall include the following information for each product:

- a. The net weight,
- b. The brand and grade,
- c. The guaranteed analysis,
- d. The name and address and phone number of the registrant.
- e. The label for each product registered.

f. Any waste-derived fertilizer distributed as a single ingredient product or blended with other fertilizer ingredients must be identified as "waste-derived fertilizer" by the registrant in the application for registration. "Waste-derived fertilizer" shall include any commercial fertilizer that is derived from an industrial byproduct, coproduct or other material that would otherwise be disposed of if a market for reuse were not an option, but does not include fertilizers derived from biosolids or biosolids products regulated under Environmental Protection Agency Code of Federal Regulation, Section 503.

g. The registrant of a waste-derived fertilizer shall state in the application for registration the levels of non-nutritive metals (including but not limited to arsenic, cadmium, mercury, lead and selenium). The registrant will provide a laboratory report or other documentation verifying the levels of the non-nutritive metals in the waste-derived fertilizer.

2. The Commissioner may require submission of the complete formula of any fertilizer or soil amendment if it shall be deemed necessary for administration of the Utah Fertilizer Act. If it appears to the Commissioner that the composition of the product is such as to warrant the proposed claims for it, and if the product and its labeling and any other information which may be required to be submitted comply with the requirements of the act, the products shall be registered.

a. Before registering any soil amendment the Commissioner shall require evidence to substantiate the claims made for the soil amendment and proof of the value and usefulness of the soil amendment. Such supportive data shall accompany the application for registration and shall be obtained from one or more State Experiment Stations. Cost for such research shall be the responsibility of the applicant. Final decision concerning registration of a soil amendment shall be made by the Commissioner following evaluation of all evidence presented.

3. The registrant is responsible for the accuracy and completeness of all information submitted concerning application for registration of a fertilizer or soil amendment product.

4. Once a fertilizer or soil amendment is registered under the act, no further registration is required, as long as the label does not differ in any respect.

5. Whenever the name of fertilizer or soil amendment product is changed or there are changes in the product ingredients or guaranteed analysis, a new registration shall be required. Other labeling changes shall not require re-registration, but the registrant shall submit copies of all changes to the Department as soon as they are effective. A reasonable time may be permitted to dispose of properly labeled stocks of the old product.

6. A registration fee determined by the department pursuant to Subsection 4-2-2(2), per product shall be paid by the applicant annually.

7. Each registration is renewable for a period of one year upon payment of the annual renewal fee determined by the department pursuant to Subsection 4-2-2(2), per product which shall be paid on or before December 31 of each year. If the renewal of a fertilizer or soil amendment registration is not filed prior to January 1 of any year, an additional fee of \$5.00 shall be assessed and added to the original registration fee and shall be paid by the applicant before the registration renewal for that fertilizer or soil amendment shall be issued.

8. A distributor is not required to register each grade of commercial fertilizer or soil amendment formulated by a consumer before mixing, but is required to register the name under which the business of blending or mixing is conducted and to pay an annual blender's license fee determined by the department pursuant to Subsection 4-2-2(2). A blender's license shall expire at midnight on December 31 of the year in which it is issued. A blender's license is renewable for a period of one year upon the payment of an annual license renewal fee. For Each renewal of a fertilizer or soil amendment blender's license not filed prior to January 1 of any one year, an additional fee of \$5.00 shall be assessed and added to the original license fee and shall be paid by the applicant before the license shall be issued.

9. Beginning January 1, 1991 and on a semi-annual basis, fertilizer and soil amendment products sold in the State of Utah will be assessed a fee determined by the department pursuant to Subsection 4-2-2(2). This assessment shall be paid by the manufacturer or distributor on or before February 1st each year for the sales period July 1 through December 31 and again on or before August 1st each year for the sales period January 1 through June 30. The amount of assessment will be determined by records of the previous six month's sales.

R68-3-3. Product Labeling.

A. Each container of packaged fertilizer distributed in Utah shall bear a label showing the following information:

- 1. net weight,
- 2. brand and grade,
- 3. guaranteed analysis,
- 4. name and address of the registrant,
- 5. lot number.

B. Each container of packaged soil amendment distributed in Utah shall bear a label showing the following:

- 1. net weight,
- 2. brand name,
- 3. name and percentages of the soil amending ingredients,
- 4. purpose of product,
- 5. directions for application of product,
- 6. name and address of the registrant,
- 7. lot number.

C. When any reference is made upon the label, labeling, or graphic material of a commercial fertilizer or soil amendment to "trace elements," "minor elements," "secondary elements," "plant foods" or similar generalized terms, each individual plant food to which such term refers must be listed upon the label.

D. No guarantee for a plant food element may be shown upon a label which is not listed upon the application for registration of the fertilizer or soil amendment material.

E. If guarantees for secondary plant foods and trace elements are listed upon the label of a fertilizer or soil amendment, they must be represented in terms of the element, and the minimum amount of each which may be guaranteed in the labeling of any fertilizer or soil amendment product is as follows:

TABLE

Calcium (Ca)	1.00%	Copper (Cu)	0.05%
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Magnesium (Mg)	0.50%	Iron (Fe)	0.10%
Sulfur (S)	1.00%	Manganese (Mn)	0.05%
Boron (B)	0.02%	Molybdenum (Mo)	0.0005%
Cobalt (Co)	0.0005%	Sodium (Na)	0.10%
Chlorine (Cl)	0.10%	Zinc (Zn)	0.05%

F. No specialty fertilizer label shall bear a statement that connotes or infers the presence of a slowly available plant nutrient unless the nutrient or nutrients are identified. When a fertilizer label infers or connotes that the nitrogen is slowly available through use of "organic," "organic nitrogen," "ureaform," "long lasting," or similar terms, the guaranteed analysis must indicate the percentage of water insoluble nitrogen in the material. When the water insoluble nitrogen is less than 15% of the total nitrogen, the label shall bear no reference to "long lasting," "organic," or similar terms.

G. Pesticides may be added to registered fertilizers or soil amendments provided:

1. The fertilizers and soil amendments and the pesticides are officially registered.
2. Each container or package containing a fertilizer or soil amendment pesticide mixture shall have attached a label showing the information stated in Subsection R68-3-2(2)(a) of these rules and in Section 4-14-4.

R68-3-4. Deficiencies of Ingredients.

A commercial fertilizer shall be deemed deficient if the analysis of nutrients is below the guarantee by an amount exceeding the values in the following schedule or if the overall index value of the fertilizer is below 98%.

TABLE
ALLOWABLE DEFICIENCIES

Guarantee Percent	Nitrogen Percent	Available Phosphoric Acid	Potash Percent
04 or less	0.49	0.67	0.41
05	0.51	0.67	0.43
06	0.52	0.67	0.47
07	0.54	0.68	0.53
08	0.55	0.68	0.60
09	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more	0.88	0.76	1.44

R68-3-5. Values of Ingredients.

The Department shall annually publish the monetary values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizer in this state, which may be used as a basis for assessing monetary penalties for ingredient deficiencies as provided under section 4-13-6.

R68-3-6. Unlawful Acts.

A. Any person who has committed any acts included but not limited to those listed below is in violation of the Utah Fertilizer Act or rules promulgated thereunder and is subject to penalties provided for in Section 4-2-14:

1. Made false or fraudulent claims through any media misrepresenting the effect of fertilizers or soil amendments offered for sale in Utah;
2. Neglected or, after notice, refused to comply with the provisions of the act, these rules, or any lawful order of the Commissioner;
3. Made false or fraudulent records, invoices, or reports;

4. Used fraud or misrepresentations in making application for, or renewal of a registration or license;
5. Distributed commercial fertilizer or soil amendments which contain seeds or other viable plant parts or noxious weeds.
6. Distributed any waste-derived fertilizer that has not been identified in the registration application.

KEY: fertilizers
October 16, 1998
Notice of Continuation January 7, 2005

4-2-2

**R156. Commerce, Occupational and Professional Licensing.
R156-50. Private Probation Provider Licensing Act Rules.
R156-50-101. Title.**

These rules are known as the "Private Probation Provider Licensing Act Rules".

R156-50-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 50, as used in Title 58, Chapter 50 or these rules:

(1) "Direct supervision of staff" means that the licensee is responsible to direct and control the activities of employees, subordinates, assistants, clerks, contractors, etc., and shall review, approve and sign off on all staff duties and responsibilities. Members of staff shall not engage in those duties and functions performed exclusively by the licensee as defined under R156-50-603.

(2) "Probation agreement" means the court order which outlines the terms and conditions the probationer shall comply with during the time period of probation.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 50, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-50-502.

R156-50-103. Authority.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 50.

R156-50-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-50-302. Qualifications for Licensure - Education and Equivalent Training Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education and equivalent training requirements for licensure in Subsection 58-50-5(1) are defined, established and defined as follows:

(1) The baccalaureate degree shall include major study in social work, sociology, psychology, counseling, law enforcement, criminal justice, corrections or other related fields.

(2) The equivalent training shall consist of four years of full-time paid employment in private probation, social work, psychology, counseling, law enforcement, criminal practice, corrections or other related fields.

R156-50-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 50 is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-50-304. Continuing Education.

(1) In accordance with Subsections 58-1-203(7) and 58-1-308(3)(b) and the continuing education requirement for renewal of licensure in Subsection 58-50-6(2), each person holding a license shall complete 40 hours of qualified continuing professional education (CPE) every two years.

(2) Those persons who become licensed during the renewal period shall be required to complete a total number of CPE hours based upon a formula of five hours of CPE for each of the remaining quarters in the renewal period.

(3) Programs will generally qualify for CPE if the program is related to probation, social work, psychology, counseling, law enforcement, criminal practice, correction or other related fields and if the program will enhance professional development.

(4) Training provided by the licensee for staff will not

qualify.

(5) It is the responsibility of the licensee to obtain qualifying CPE and document the CPE on forms supplied by the Division.

(6) The Division may perform random audits to determine compliance with CPE.

R156-50-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) failing to comply with the continuing professional education requirement of Section R156-50-304;

(2) failing to comply with the operating standards required for a presentence report;

(3) failing to properly supervise the offender as set forth in the probation agreement;

(4) failing to disclose any potential conflict of interest relating to supervision of an offender as set forth in Subsection 58-50-2(5), including, but not limited to the following circumstances:

(a) simultaneously providing mental health therapy services and private probation services to the same offender;

(b) simultaneously providing education and/or rehabilitation services and private probation services to the same offender; or

(c) while providing private probation services to an offender, also providing any other service to the offender for which the licensee receives compensation;

(5) accepting any amount of money or gratuity from an offender other than that fee which is set forth in the probation agreement; or

(6) failing to report any violation of the probation agreement.

R156-50-601. Private Probation Services Standards - Probation Supervision.

In accordance with Subsection 58-50-9(5), the private probation services standards concerning probation supervision are established and defined as follows:

(1) The private probation provider shall perform the following minimum services for each offender who is referred by the court:

(a) conduct an initial interview/assessment with each offender and establish a plan of supervision which shall be known as the case plan;

(b) review the court ordered agreement with each offender and have the offender sign the probation agreement;

(c) review with each offender the court ordered payment contract which shall provide for the collection and distribution of fines and restitution payments, and fees for services performed by the licensee;

(d) after the initial assessment, conduct a personal interview with each offender in accordance with the case plan not less than once each month and as many additional times as necessary to determine that the offender is in compliance with the probation agreement; and

(e) submit written reports as required by the probation agreement.

(2) The private probation provider shall maintain and make available for inspection a current list of fees for services to be charged to the offender which shall be reviewed and approved by the court.

(3) The private probation provider shall be required to report to the court within two working days any new known criminal law violations committed by the offender or report any failure to comply with the terms and conditions of the probation agreement including payment of fines, restitution and fees.

(4) The private probation provider shall notify in writing the sentencing court and the office of the prosecuting attorney not less than ten working days prior to the date of termination

of any supervised probation. The notification shall include a report outlining the probationer's compliance with terms and conditions of the probation agreement including payment of any fines, restitution and fees.

R156-50-602. Private Probation Services Standards - Preparing Presentence Investigative Reports.

In accordance with Subsection 58-50-9(5), the private probation services standards concerning preparing presentence investigative reports are established and defined as follows:

- (1) The private probation provider shall gather the following relevant information, if applicable:
 - (a) juvenile arrest and disposition records;
 - (b) adult arrest and disposition records;
 - (c) county attorney or city prosecutor file information;
 - (d) arresting officer's report;
 - (e) victim impact statement;
 - (f) driving history record;
 - (g) blood/breath alcohol content test results;
 - (h) treatment evaluations; and
 - (i) medical reports.
- (2) The private probation provider shall conduct interviews with the following:
 - (a) the defendant;
 - (b) the victim, and
 - (c) the following when relevant and available:
 - (i) family;
 - (ii) friends;
 - (iii) school;
 - (iv) employers;
 - (v) military; and
 - (vi) past and present treatment providers.
- (3) The private probation provider shall recommend restitution, when appropriate;
- (4) The private probation provider shall refer to outside agencies, when appropriate, for additional evaluation;
- (5) The private probation provider shall develop recommendations based upon a risk/needs assessment; and
- (6) The private probation provider shall complete and submit the report to the court within not less than 24 hours prior to sentencing.

R156-50-603. Private Probation Services Standards - Duties and Responsibilities of the Private Probation Provider and Staff.

- (1) In accordance with Subsection 58-50-9(5), the duties and responsibilities of the private probation provider shall include the following:
 - (a) review, approve and sign all reports required under this chapter or ordered by the court;
 - (b) conduct the initial interview/assessment with each offender;
 - (c) conduct at least one personal interview with each offender each month;
 - (d) conduct all interviews required in the preparation of the presentence report.
- (2) The duties and responsibilities of the staff under direct supervision of the private probation provider include the following:
 - (a) assist in the gathering of information and the preparation of reports;
 - (b) perform other monthly interviews;
 - (c) contact offenders by telephone or in person to determine compliance with the case plan;
 - (d) collect fines, restitutions and fees for services; and
 - (e) other clerical duties as assigned by the licensee.

R156-50-604. Private Probation Services Standards - Distribution of Fines, Restitutions, and Service Fees.

In accordance with Subsection 58-50-9(5), private probation providers shall distribute court ordered fines and restitutions and private probation service fees which are collected by the private probation provider at least every month in equal proportions to the court, the victim, the licensee and any other parties ordered by the court until each party entitled to the monies are paid in full as determined by the court order and case plan.

KEY: licensing, probation, private probation provider
January 18, 2005 **58-50-1**
Notice of Continuation April 26, 2001 **58-1-106(1)(a)**
58-1-202(1)(a)
58-50-5(1)
58-50-9(5)

**R156. Commerce, Occupational and Professional Licensing.
R156-61. Psychologist Licensing Act Rules.
R156-61-101. Title.**

These rules are known as the "Psychologist Licensing Act Rules."

R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or these rules:

(1) "Approved diagnostic and statistical manual for mental disorders" means the "Diagnostic and Statistical Manual of Mental Disorders", 4th edition, published by the American Psychiatric Association, or the ICD-10-CM published by Medicode or the American Psychiatric Association.

(2) "Qualified faculty", as used in Subsection 58-1-307(b), means that university faculty member providing pre-doctoral supervision of clinical or counseling experience, that is experience in a university setting which is acquired prior to the pre-doctoral internship, who is licensed in Utah as a psychologist and who is training students in the context of a doctoral program leading to license eligibility. Qualified faculty does not include adjunct faculty. The qualified faculty supervisor must be legally able to personally provide the services which he is supervising. The qualified faculty supervisor must meet all other requirements for supervision as described in Section R156-61-302e. This provision does not allow such qualified faculty supervisors to provide supervision of hours needed for license eligibility, such as internship and post doctoral experience, unless the supervisor is otherwise qualified according to Section R156-61-302d. Supervisors in settings other than a university setting as described in this subsection must meet all requirements for supervisors as described in Sections R156-61-302d and R156-61-302e.

(3) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

R156-61-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 61.

R156-61-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-61-201. Advisory Peer Committee Created - Membership - Duties.

(1) There is hereby enabled in accordance with Subsection 58-1-203(6), the Ethics Committee as an advisory peer committee to the Psychology Licensing Board on either a permanent or ad hoc basis consisting of members licensed in good standing as psychologists qualified to engage in the practice of mental health therapy, in number and area of expertise necessary to fulfill the duties and responsibilities of the committee as set forth in Subsection (3).

(2) The committee shall be appointed and serve in accordance with Section R156-1-204.

(3) The duties and responsibilities of the committee shall include assisting the division in its duties, functions, and responsibilities defined in Section 58-1-203 as follows:

(a) upon the request of the division, review reported violations of Utah law or the standards and ethics of the profession by a person licensed as a psychologist and advise the division if allegations against or information known about the person presents a reasonable basis to initiate or continue an investigation with respect to the person;

(b) upon the request of the division provide expert advice

to the division with respect to conduct of an investigation; and
(c) when appropriate serve as an expert witness in matters before the division.

R156-61-302a. Qualifications for Licensure - Education Requirements.

(1) An institution or program of higher education, or a degree qualifying an applicant for licensure as a psychologist, to be recognized by the division in collaboration with the board under Subsection 58-61-304(1)(d), shall be accredited by the Committee on Accreditation of the American Psychological Association or meet the following criteria:

(a) if located in the United States or Canada, be accredited by a professional accrediting body approved by the Council for Higher Education of the American Council on Education, at the time the applicant received the required earned degree; or

(b) if located outside of the United States or Canada, be equivalent to an accredited program under Subsection (a), and the burden to demonstrate equivalency shall be upon the applicant; and

(c) result from successful completion of a program conducted on or based on a formal campus;

(d) result from a program which includes at least one year of residence at the educational institution;

(e) if located in the United States or Canada, be an institution having a doctoral psychology program meeting "Designation" criteria, as recognized by the Association of State and Provincial Psychology Boards/National Register Joint Designation Committee, at the time the applicant received the earned degree, or if located outside of the United States or Canada, meet the same criteria by which a program is recognized by the Association of State and Provincial Psychology Boards at the time the applicant received the earned degree;

(f) have an organized sequence of study to provide an integrated educational experience appropriate to preparation for the professional practice of psychology, and shall clearly identify those persons responsible for the program with clear authority and responsibility for the core and specialty areas regardless of whether or not the program cuts across administrative lines in the educational institution;

(g) clearly identify in catalogues or other publications the psychology faculty, demonstrate that the faculty is sufficient in number and experience to fulfill its responsibility to adequately educate and train professional psychologists, and demonstrate that the program is under the direction of a professionally trained psychologist;

(h) grant earned degrees resulting from a program encompassing a minimum of three academic years of full time graduate study with an identifiable body of students who are matriculated in the program for the purpose of obtaining a doctoral degree;

(i) include supervised practicum, internship, and field or laboratory training appropriate to the practice of psychology;

(j) require successful completion of a minimum of two semester/three quarter hour graduate level core courses including:

(i) scientific and professional ethics and standards;

(ii) research design and methodology;

(iii) statistics; and

(iv) psychometrics including test construction and measurement;

(k) require successful completion of a minimum of two graduate level semester hours/three graduate level quarter hours in each of the following knowledge areas. Course work must have a theoretical focus as opposed to an applied, clinical focus:

(i) biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, psychopharmacology, perception and sensation;

(ii) cognitive-affective bases of behavior such as learning, thinking, cognition, motivation and emotion;

(iii) social and cultural bases of behavior such as social psychology, organizational psychology, general systems theory, and group dynamics; and

(iv) individual differences such as human development, personality theory and abnormal psychology.

(l) require successful completion of specialty course work and professional education courses necessary to prepare the applicant adequately for the practice of psychology.

(2) An applicant who has received a doctoral degree in psychology by completing the requirements of Subsections (1)(a) through (i), without completing the core courses required under Subsection (j), or the specialty course work required in Subsection (l) may be allowed to complete the required course work post-doctorally. The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (j) and (l) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(3) The date of completion of the doctoral degree shall be the graduation date or the date on which all formal requirements for graduation were met as certified by the university registrar.

R156-61-302b. Qualifications for Licensure - Experience Requirements.

(1) Psychology training of a minimum of 4,000 hours qualifying an applicant for licensure as a psychologist under Subsection 58-61-304(1)(e), and mental health therapy training under Subsection 58-61-304(1)(f), to be approved by the division in collaboration with the board, shall:

(a) be completed in not less than two years and in not more than four years unless otherwise approved by the board and division; and

(b) be completed while the applicant is under the supervision of a qualified psychologist meeting the requirements under Section R156-61-302d.

(2) In accordance with Subsection 58-61-301(1)(b), an individual engaged in a post-doctoral residency program of supervised clinical training shall be certified as a psychology resident.

(3) An applicant for licensure as a psychologist who has commenced and completed all or part of the psychology or mental health therapy training requirements under Subsection (1) outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to the requirements for training under Subsections 58-61-304(1)(e) and (f), and Subsection R156-61-302b(1). The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to the requirements under this Subsection.

R156-61-302c. Qualifications for Licensure - Examination Requirements.

(1) The examination requirements which must be met by an applicant for licensure as a psychologist under Subsection 58-61-304(1)(g) are:

(a) passing the Examination for the Professional Practice of Psychology (EPPP) developed by the American Association of State Psychology Board (ASPPB) with a passing score as recommended by the ASPPB; and

(b) passing the Utah Psychology Law Examination with a score of not less than 75%.

(2) A person may be admitted to the EPPP examination in Utah only after meeting the requirements under 58-61-305, and after receiving written approval from the division.

(3) If an applicant is admitted to an EPPP examination

based upon substantive information that is incorrect and furnished knowingly by the applicant, the applicant shall automatically be given a failing score and shall not be permitted to retake the examination until the applicant submits fees and a correct application demonstrating the applicant is qualified for the examination. If an applicant is inappropriately admitted to an EPPP examination because of a division or board error and the applicant receives a passing score, the results of the examination may not be used for licensure until the deficiency which would have barred the applicant for admission to the examination is corrected.

(4) An applicant who fails the EPPP examination three times will not be allowed subsequent admission to the examination until the applicant has appeared before the board, developed with the board a plan of study in appropriate subject matter, and thereafter completed the planned course of study to the satisfaction of the board.

(5) An applicant who is found to be cheating on the EPPP examination or in any way invalidating the integrity of the examination shall automatically be given a failing score and shall not be permitted to retake the examination for a period of at least three years as is determined by the division in collaboration with the board.

(6) The Utah Psychology Law Examination may be taken only after an applicant has taken the EPPP examination.

R156-61-302d. Qualifications for Designation as an Approved Psychology Training Supervisor.

To be approved by the division in collaboration with the board as a supervisor of psychology or mental health therapy training required under Subsections 58-61-304(1)(e) and (f), an individual shall:

(1) be currently licensed in good standing as a psychologist in the jurisdiction in which the supervised training is being performed; and

(2) demonstrate practice as a licensed psychologist for not less than 4,000 hours in a period of not less than two years.

R156-61-302e. Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training.

The duties and responsibilities of a psychologist supervisor are further defined, clarified or established as follows:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;

(2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) supervise not more than 120 hours of supervised experience per week;

(4) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;

(5) comply with the confidentiality requirements of Section 58-61-602;

(6) provide timely and periodic review of the client records assigned to the supervisee;

(7) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of psychology;

(8) submit appropriate documentation to the division with respect to work completed by the supervisee evidencing the performance of the supervisee during the period of supervised psychology training and mental health therapist training.

including the supervisor's evaluation of the supervisee's competence in the practice of psychology and mental health therapy;

(9) ensure that the supervisee is certified by the Division as a psychology resident.

R156-61-302f. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 61, is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-61-302g. License Reinstatement - Requirements.

An applicant for reinstatement of his license after two years following expiration of that license shall be required to:

(1) upon request meet with the board for the purpose of evaluating the applicant's current ability to engage safely and competently in practice as a psychologist and to make a determination of education, experience or examination requirements which will be required before reinstatement;

(2) upon the recommendation of the board, establish a plan of supervision under an approved supervisor which may include up to 4000 hours of psychology and/or mental health therapy training;

(3) pass the Utah Psychology Law Examination;

(4) pass the EPPP Examination if it is determined by the board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a psychologist; and

(5) complete a minimum of 48 hours of professional education in subjects determined by the board as necessary to ensure the applicant's ability to engage safely and competently in practice as a psychologist.

R156-61-302h. Continuing Education.

(1) There is hereby established a continuing professional education requirement for all individuals licensed or certified under Title 58, Chapter 61.

(2) During each two year period commencing on October 1 of each even numbered year:

(a) a licensed psychologist shall be required to complete not less than 48 hours of qualified professional education directly related to the licensee's professional practice; or

(b) a certified psychology resident shall be required to complete not less than 24 hours of qualified professional education directly related to professional practice.

(3) The required number of hours of professional education for an individual who first becomes licensed during the two year period year shall be decreased in a pro-rata amount equal to any part of that two year period year preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a psychologist;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Credit for professional education shall be recognized

in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of ten hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing education professional education courses in the field of psychology, or supervision of an individual completing his experience requirement for licensure as a psychologist;

(c) a maximum of six hours per two year period may be recognized for clinical readings directly related to practice as a psychologist;

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) A licensee who documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-61-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted by the APA, August 2002 edition, which is adopted and incorporated by reference;

(2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, June 2001 edition, which is adopted and incorporated by reference;

(3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;

(4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(5) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(6) failing to establish and maintain appropriate professional boundaries with a client or former client;

(7) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(8) engaging in sexual activities or sexual contact with a client with or without client consent;

(9) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(10) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client;

(11) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his

personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and that individual;

(12) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(13) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(15) exploiting a client for personal gain;

(16) use of a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(19) failure to cooperate with the Division during an investigation

(20) participating in a residency program without being certified as a psychology resident; and

(21) supervising a residency program of an individual who is not certified as a psychology resident.

KEY: licensing, psychologists

January 4, 2005

Notice of Continuation June 10, 2004

58-1-106(1)(a)

58-1-202(1)(a)

58-61-101

R156. Commerce, Occupational and Professional Licensing.**R156-71. Naturopathic Physician Practice Act Rules.****R156-71-101. Title.**

These rules are known as the "Naturopathic Physician Practice Act Rules."

R156-71-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 71, as used in Title 58, Chapters 1 and 71, or these rules:

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(e) and 58-71-304.2(1)(b), means a minimum 12 month program associated with a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b), means the supervising naturopathic physician, physician and surgeon, or osteopathic physician is responsible for the naturopathic activities and services performed by the naturopathic physician intern and is normally present in the facility and when not present in the facility is available by voice communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a medical naturopathic assistant ("assistant") as used in Subsections 58-71-102(6) and 58-71-305(7), means that the licensed naturopathic physician is responsible for the activities and services performed by the assistant and will be in the facility and immediately available for advice, direction and consultation.

(4) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the division under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

(5) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

(6) "Qualified continuing education," as used in these rules, means continuing education that meets the standards set forth in Subsection R156-71-304.

(7) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 71, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-71-502.

R156-71-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 71.

R156-71-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-71-202. Naturopathic Physician Formulary.

(1) In accordance with Subsections 58-71-102(8) and 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category:

Adrenergic Stimulators, limited to: Albuterol, Epinephrine, and Metaproteranol;
 Ace Inhibitors;
 Amino Acids;
 Anesthetics (local);
 Antiemetics;
 Antifungals, limited to: Nystatin and Fluconazole;
 Antigout;

Antihistamines;
 Anti-inflammatories, except DMARDS;
 Antimicrobials (oral), limited to: Pencillins, 1st and 2nd generation Cephalosporins, Tetracyclines, Macrolides, Azalides, Lincosamines, Metronidazole, Hydantoins, and Sulfas;
 Antimicrobials (ophthamologic), limited to: Sulfas and Macrolides;
 Antimicrobials (topical);
 Antivirals, limited to Acyclovir;
 Biologics, limited to: Skin Testing, CDC recommended Immunizations, Toxoids, and Immunoglobulin;
 Calcium Channel Blockers (2nd Generation Dihydropyridine);
 Contraceptives, except implants and injections;
 Corticosteroids (oral or topical), except Ophthamologic Preparations;
 Diabetic Agents, limited to: Insulin, and oral Hypoglycemics, except Thiazolidinediones;
 Diuretics, limited to: Thiazide or Loop;
 Dyslipidemia Modulators;
 Electrolyte and Fluid Replacements;
 Enzymes, limited to: Digestive and Proteolytic;
 H2 Blockers;
 Hormones;
 Leukotrine modulators;
 Migraine Preparations, limited to: Ergotamines and Sumatriptin;
 Minerals: Macro and Micro;
 Osteoporosis agents, limited to: Calcitonin and Raloxifene;
 Oxygen;
 Pentoxifylline;
 Proton-Pump Inhibitors;
 Urinary Antispasmodics;
 Vitamins;
 Other: Methergine and Pitocin, limited to use only after the uterus has been emptied;
 Silver Nitrate.

(2) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.

(3) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

R156-71-302. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-71-302(1)(f) and 58-71-302(2)(c), the licensing examination sequence required for licensure is as follows:

(1) NPLEX Basic Science Series, the State of Washington Basic Science Series or the State of Oregon Basic Science Series;
 (2) NPLEX Clinical Series;
 (3) NPLEX Homeopathy;
 (4) NPLEX Minor Surgery; and
 (5) the Utah Naturopathic Physician Practice Act Law and Rule Examination.

R156-71-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 71 is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-71-304. Qualified Continuing Education.

(1) In accordance with Subsection 58-71-304(1)(a), qualified continuing education shall consist of 24 hours of

qualified continuing professional education in each preceding two year period of licensure.

(2) If a licensee allows his license to expire and the application for reinstatement is received by the division within two years after the expiration date the applicant shall:

(a) submit documentation of having completed 24 hours of qualified continuing professional education required for the previous renewal period; and

(b) submit documentation of having completed a pro rata amount of qualified continuing professional education based upon one hour of qualified continuing professional education for each month the license was expired for the current renewal period.

(3) If the application for reinstatement is received by the division more than two years after the date the license expired, the applicant shall complete a minimum of 24 hours of qualified continuing professional education and additional hours as determined by the board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine.

(4) The standards for qualified continuing education are as follows:

(a) content must be relevant to naturopathic practice and consistent with the laws and rules of this state;

(b) under sponsorship of:

(i) an approved college or university; or

(ii) a professional association or organization representing a licensed profession whose program objectives are related to naturopathic practice;

(c) learning objectives must be reasonably and clearly stated;

(d) teaching methods must be clearly stated and appropriate;

(e) faculty must be qualified, both in experience and in teaching expertise;

(f) there must be a written post course or program evaluation; and

(g) documentation of attendance must be provided.

(5) Qualified continuing education shall consist of at least 10 hours of seminars, conferences or workshops addressing case management and prescribing of legend drugs.

(6) Audits of a licensee's continuing education hours may be done on a random basis by the division in collaboration with the board.

(7) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of two years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain this information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(8) The division in collaboration with the board may grant a waiver of continuing education requirements to a waiver applicant who documents he is engaged in full time activities or is subjected to circumstances which prevent the licensee from meeting the continuing professional education requirements established under this section. A waiver may be granted for a period of up to four years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-71-502. Unprofessional Conduct.

"Unprofessional conduct" includes failure to comply with the approved formulary.

KEY: licensing, naturopaths, naturopathic physician

January 4, 2005

58-71-101

Notice of Continuation February 7, 2002

58-1-106(1)(a)

58-1-202(1)(a)

R202. Community and Economic Development, Community Development, Community Services.**R202-202. Energy Assistance Programs Standards.****R202-202-202. Opening and Closing Dates for HEAT Program.**

1. Each November 1, or the first working day thereafter, the HEAT Program opens for the general population.
2. The HEAT Program closes the following April 30, or the last business day of the month, or when federal LIHEAP funds are exhausted, whichever comes first. Applications taken on or before the program closing date may be processed after the program closing date. If funds are exhausted before all applications are processed, notice of non-payment will be sent to the remaining unprocessed applications.

R202-202-206. U.S. Residence.

1. To be eligible for HEAT assistance, a person must meet at least one of the criteria for US residence listed below:
 - a. Be a US born or naturalized citizen as evidenced by any document verifying the individual was born in the US or naturalization papers.
 - b. Be lawfully admitted into the US for permanent residence as evidenced by an Immigration and Naturalization Service (INS) form I-151 or I-551.
 - c. Be lawfully admitted into the US as a Refugee as evidenced by an INS form I-94 stamped "Admitted under the Refugee Act of 1980".
 - d. Be lawfully admitted into the US as a conditional entrant as evidenced by an INS form I-94 stamped "Conditional Entrant".
 - e. Be lawfully admitted into the US as a special agricultural worker as evidenced by a green colored INS form I-688 stamped PL 99-603 Sec. 210.
2. Persons not eligible to participate in the HEAT program are:
 - a. Persons who hold INS I-94 who are admitted as temporary entrants.
 - b. Persons who hold an INS I-688 Sec. 210A (RAWS).
 - c. Persons who hold an INS I-688 Sec. 245A (AMNESTY).
 - d. Persons who hold an INS I-688A Sec. 210, 210A, or 245A (SAWS, RAWS, and AMNESTY).
 - e. Persons who have no registration card.

R202-202-210. Utah Residence.

There is no length of residency requirement. Individuals must be living in Utah voluntarily and not for a temporary purpose.

R202-202-214. Local Residence.

1. A household's completed HEAT application must be maintained in the office in the area where they reside.
2. Native American Residents of Daggett, Duchesne, and Uintah Counties who are enrolled in any federally recognized Indian Tribe have a choice of applying for utility assistance through the state HEAT program or through the Ute Tribal LIHEAP Program. Clients cannot receive assistance from both programs in the same program year.
3. Native American Residents of Washington, Iron, Millard, and Sevier Counties have a choice of receiving utility assistance through the state HEAT program or through the Paiute Tribal LIHEAP Program. Clients cannot receive assistance from both programs in the same program year.
4. Residents living on the Navajo Indian Reservation in San Juan county must apply for utility assistance through the Navajo Tribe. They cannot receive assistance through the state HEAT program except through special provision of the State HEAT Office.

R202-202-218. Vulnerability.

1. An eligible household must be vulnerable to home heating costs.
 - a. The following households are considered responsible for home heating costs:
 - i. Households who are presently paying heating costs directly to energy suppliers on currently active accounts.
 - ii. Households who are currently paying energy costs indirectly through rent.
 2. Residents in the following households are not considered responsible for home heating costs and are not eligible for HEAT assistance:
 - a. Nursing homes;
 - b. Hospitals;
 - c. Prisons and jails;
 - d. Institutions;
 - e. Alcoholism and drug treatment centers;
 - f. Group homes administered under a contract with a government agency or administered by a government agency;
 - g. Households not connected to a heat source;
 - h. Households whose utility bills are paid regularly by an outside party;
 - i. Residents of hotels or trailer courts who have lived there less than 30 days and who do not pay a reasonable or customary rate.

R202-202-220. Subsidized Housing - Roomers And Boarders.

Eligibility for HEAT assistance: a household living in a federal, state, or local subsidized housing or anyone renting a room in a private house or apartment must pay an identifiable surcharge for heat in addition to their rent or they must pay a utility bill for heating costs directly to a utility provider.

R202-202-222. Social Security Numbers.

1. Adults who apply for HEAT assistance must provide verification of their Social Security Numbers (SSN) or apply for SSN cards. Social Security Numbers may be required for all household members if there is a question of household size and composition.
 - a. There are four ways to provide a correct SSN. The client can submit one of these three documents.
 - i. An official SSN card
 - ii. Official documents from Social Security Administration including award letters, benefit checks or a Medicare card
 - iii. An SSA receipt form 5028 or 2880.
 - iv. Official document from another government agency or from an employer.

R202-202-230. Eligible HEAT Household.

1. Household members need not be related.
2. Multiple dwellings including duplexes and apartment buildings, are considered separate households.

R202-202-234. Age and Emancipation.

Household members 18 years of age or older or emancipated are considered adults. A child can be emancipated by age, marriage or court order.

R202-202-238. Weatherization Referrals.

Participation in the weatherization program is not a condition of eligibility for HEAT.

R202-202-242. Energy Crisis Intervention.

1. A crisis is any weather-related emergency, any supply shortage emergency, or any other household energy-related emergency as approved by the region or state office.
 - a. Examples of household energy-related emergencies may include energy costs above 25% of the client's gross income,

arrears when the client has demonstrated a good faith attempt to resolve the problem or repairs to prevent loss of energy from a dwelling.

b. Examples of household energy-related non-emergencies may include payments that will create a credit balance on a utility account, payments on utility accounts previously sent to a collection agency or capital improvements to rental property.

2. To be eligible for energy crisis intervention, a household must be eligible for HEAT during the same HEAT program year.

a. If the local office determines that a household is eligible to receive energy crisis intervention benefits and is in a life threatening situation, energy crisis intervention benefits will be provided within 18 hours. Regular energy crisis intervention benefits will be provided within 48 hours of eligibility determination.

b. The director or HEAT supervisor must approve all crisis intervention expenditures.

c. HEAT payments are issued to the vendor. In emergencies a check may be issued to the client.

d. When an energy crisis requires work from an outside vendor, the client must obtain at least two bids before work may begin. The job order will go to the lowest bidder unless the reasons for accepting a higher bid is documented and approved by the supervisor or the state office.

e. Energy crisis intervention payments are limited to a maximum of \$500 per household per HEAT program year unless prior approval for an amount larger than \$500 is obtained from the supervisor or state office.

R202-202-244. Supplemental Programs.

Household who qualify for HEAT assistance may also receive supplemental payments from other utility programs, such as "Reach", "Lend-A-Hand", and Catholic Community Services utility fund.

R202-202-252. Security Deposits.

1. Public Service Commission (PSC) Regulated Utilities
a. A PSC regulated utility is required to waive the security deposit requirement for all Heat and Moratorium clients during the period of the Moratorium.

b. Monies received by a regulated utility from third-party sources, including monies provided by HEAT, REACH, CONCERN or similar programs, shall not be applied to the security deposit.

2. Non Regulated Utilities

a. If the company has signed a HEAT contract, the company has agreed not to charge a security deposit to a HEAT client from November 15th through March 15th. This does not apply to the service initiation fees that are routinely charged as a condition of service.

R202-202-256. Consumer Complaints.

1. Public Service Commission (PSC) Regulated Utilities
a. Consumer complaints against a PSC regulated utility should be referred to the Public Service Commission.

2. Non Regulated Utilities

a. Consumer complaints against a non regulated utility should be referred directly to the individual utility company.

R202-202-260. Credit Balances on Utility Accounts.

1. If the household discontinues service with their utility supplier, and the household so elects, the disconnecting supplier will forward any HEAT credit balance remaining on the account to the household's new utility company. The new utility company must operate in Utah. The household must furnish, to the disconnecting utility supplier, the name and address of the new utility company within 30 days after termination of service.

2. If the household elects to have the HEAT credit balance

refunded directly to them, the disconnecting utility supplier will do so if the household still resides in Utah. The household must furnish, to the disconnecting utility supplier, their new address within 30 days after termination of service.

3. In no case shall HEAT credit balances be forwarded to utility companies not operating in Utah or to clients no longer residing in Utah.

4. If the client fails to give the disconnecting utility company the information for either option one or option two listed above, the utility company can hold the credit balance for an additional 30 days. If reconnection with the same utility has not occurred, any remaining credit balance must be refunded to the HEAT program.

5. Once credit balances are refunded to the HEAT program they become part of the general HEAT budget and are redistributed in the form of benefits to additional eligible households.

KEY: energy assistance, residency requirements, opening and closing dates, HEAT

January 12, 2005

9-12-10

Notice of Continuation June 14, 2002

R202. Community and Economic Development, Community Development, Community Services.**R202-203. Energy Assistance Income Standards, Income Eligibility, and Payment Determination.****R202-203-300. Energy Assistance Income Standards.**

For HEAT assistance cases, the local HEAT office shall determine the countable income of the household.

R202-203-306. Countable Income.

Countable income is gross income minus exclusions, disregards, and deductions.

R202-203-308. Unearned Income.

1. Countable unearned income is cash received by an individual for which no service is performed.

2. Sources of unearned income include the following:

- a. Pensions and annuities including Railroad Retirement, Social Security, Supplemental Security Income, Veteran's benefits and Civil Service retirement benefits;
- b. Disability benefits including Industrial Compensation, sick pay, mortgage insurance and paycheck insurance;
- c. Unemployment Compensation;
- d. Strike or union benefits;
- e. Veteran's benefits;
- f. Child support and alimony;
- g. Veteran's Educational Assistance intended for family members;
- h. Trust payments;
- i. Tribal fund gratuities unless excluded by law.
- j. Money from sales contracts and mortgages;
- k. Personal injury settlements;
- l. Financial payments made by the Department of Workforce Services;
- m. Income from Rental Property. If the client also manages the property, the income is earned.

R202-203-310. Earned Income.

1. Earned income is income in cash or in kind received by an individual for which a service is performed.

2. Sources of earned income include the following:

- a. Wages, including military base pay;
- b. Salaries;
- c. Commissions;
- d. Rent amount, when client works in return for rent;
- e. Monies from self-employment including baby-sitting;
- f. Tips;
- g. Sale of livestock and poultry;
- h. Work Study;
- i. University Year for Action;
- j. Military payments to cover Basic Allowance for Quarters and Basic Allowance for Substance;
- k. Money the employee chooses to have withheld for benefit plans including Flex Plans and Cafeteria Plans.

R202-203-316. Income Exclusions.

1. The following definitions apply to this section:

- a. "Bona fide loan" means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.
 - b. "JTPA" means Jobs Training Partnership Act.
2. The income listed below is not counted:
- a. Earned income of an unemancipated household member.
 - b. Cash over which the household has no control.
 - c. Reimbursements for expenses directly related to employment, training, schooling, and volunteer activities.
 - d. Reimbursements for incurred medical expenses.
 - e. Bona fide loans.
 - f. Compensation paid to individual volunteers under the Retired Senior Volunteers Program, Green Thumb and the

Foster Grandparent Program.

g. Incentive and training expenses paid by the HEAT Self Sufficiency program.

h. Earned Income Tax Credit.

i. Financial payments from JTPA.

j. Value of Food Stamp Coupons, Food Stamp Cash Out checks, and surplus commodities donated by the U.S. Department of Agriculture.

k. Educational loans, grants, scholarships or college work study with the exception of Veterans Educational Assistance intended for the family members of the student. The student's portion is exempt.

l. Interest or Dividend Income.

m. Compensation or reimbursement paid to Volunteers In Service To America, Senior Health Aides, Senior Core of Retired Executives, Senior Companions and ACE.

n. Church cash assistance and voluntary cash contributions by others unless received on a regular basis.

o. Rental subsidies and relocation assistance.

p. Utility subsidies.

q. Any funds, payments, or tribal benefits required by Public Law 98-64, Public Law 93-134(7), Public Law 92-254, Public Law 94-540, Public Law 94-114 and Public Law 96-240(9).

r. Payments required by Public Law 92-203.

s. Payments required by Public Law 101-201 or Public Law 101-239(10405).

t. Payments required by Public Law 100-383.

u. Payments required by Public Law 101-426.

v. Payments required by Public Law 100-707.

R202-203-320. Income Disregard.

1. The following definition applies to this section:

a. "Disregard" means a portion of income that is not counted.

2. 20% of earned income, including self-employment earned income, will be disregarded.

3. For self-employed households the cost of doing business will be deducted. The 20% disregard will be applied to the remainder.

R202-203-324. Income Deductions.

1. Medical

A deduction for payments on uncompensated medical bills will be allowed when those payments are actually made by a member of the household during the same time period as the income being counted.

a. The client must verify the payment was made directly to a medical provider in the month prior to the month of application and that they will not be reimbursed by a third party.

b. Health and accident insurance payments, dental insurance payments, and Medical Assistance Only (MAO) payments are considered medical expenses.

2. Child Support and Alimony

a. A deduction for child support and alimony payments will be allowed when those payments were actually made by a member of the household during the same time period as the income being counted.

b. The client must verify the payment was actually made directly to the custodial adult or through the court.

c. Payments in lieu of child support and alimony, including car payments or mortgage payments, are deductible.

R202-203-328. Self-Employment Income.

1. A self-employed person actively earns income directly from their own business, trade, or profession.

2. Self-employment income will be determined by using the previous year's tax return or as follows:

a. All gross self-employment income is counted.

- i. Capital gains will be included.
- ii. The proceeds from the sale of capital goods or equipment will be calculated in the same way as a capital gain for Federal income tax purposes. Even if only part of the proceeds from the sale of capital goods or equipment is taxed, the full amount of the capital gain will be counted as income for HEAT program purposes.
 - b. The cost of doing business will be deducted.
 - i. Allowable business costs include:
 - A. labor;
 - B. stock;
 - C. raw materials;
 - D. seed and fertilizer;
 - E. interest paid toward the purchase of income producing property;
 - F. insurance premiums;
 - G. taxes paid on income producing property;
 - ii. Transportation costs will be allowed only if the person must move from place to place in the course of business.
 - iii. The following items will not be allowed as business expenses:
 - A. Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods.
 - B. Net losses from previous periods.
 - C. Federal, state and local income taxes, money set aside for retirement purposes, and other work related personal expenses.
 - D. Depreciation.

R202-203-330. HEAT Financial Eligibility and Payment Determination.

1. All countable income received in the previous calendar month for the current applicant household will be used to determine eligibility. Terminated income received in the previous calendar month or the month of application is exempt if no new source of income is identified. Failure to provide verification of income will result in the HEAT application being denied.

Verification of countable income includes preceding or current month's SSI or SSA checks, divorce decrees, award letters, or current check stubs if the income is stable and the amount is the same as the actual income received in the previous calendar month.

KEY: energy assistance, self-employment income, income eligibility, payment determination

January 12, 2005

9-12-10

Notice of Continuation June 14, 2002

R202. Community and Economic Development, Community Development, Community Services.**R202-207. Energy Assistance: Records and Benefit Management.****R202-207-702. Records Management.**

1. Documentation of the eligibility decision and amount of HEAT assistance is kept in the household's HEAT folder in the local HEAT office. Every person who completes an application shall have a case record.

2. HEAT case records shall not be removed from the local HEAT Office except by subpoena or request of the State HEAT Office (SHO) or in accordance with the Archives Schedule.

R202-207-720. Notification.

1. The local HEAT office shall provide all HEAT applicants with a written notice of any action that affects the amount, form, or requirements of the assistance.

2. Written notice shall include an explanation of the action, the reason for the action, and the effective date of the action. The notice shall also include an explanation of the applicant's hearing rights and how to file a hearing if the applicant is not satisfied with the decision on the case.

R202-207-734. Checks.

1. All HEAT payments to clients or vendors are issued by check.

2. If the payee dies before endorsing the check, the local Heat Office director or designee may authorize another person to endorse the check to use it on behalf of the payee or other person in the case.

3. Lost or stolen HEAT checks.

a. The client must report a lost or stolen check within 29 days of the issuance date. A check that is reported lost or stolen 30 days or more after the issuance date will not be replaced.

b. The client may report this by telephone or in person.

c. Lost checks will be replaced after five mailing days from the issuance date.

d. A replacement HEAT check which is lost or stolen after the payee receives it will not be issued.

KEY: energy assistance, benefits, government documents, state HEAT office records

January 12, 2005

9-12-10

Notice of Continuation June 14, 2002

R277. Education, Administration.**R277-473. Testing Procedures.****R277-473-1. Definitions.**

A. "Basic skills course" means those courses specified in Utah law for which CRT testing is required.

B. "Board" means the Utah State Board of Education.

C. "Criterion Reference Test (CRT)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

D. "DCS" means the USOE District Computer Services Section.

E. "Last day of school" means the last day classes are held in each school district.

F. "Norm-reference Test (NRT)" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.

G. "Protected test materials" means consumable and nonconsumable test booklets, directions for administering the assessments and supplementary assessment materials (e.g., videotapes) designated as protected test materials by the USOE. Protected test materials shall be used for testing only and shall be secured where they can be accessed by authorized personnel only.

H. "Raw test results" means number correct out of number possible, without scores being equated and scaled.

I. "Standardized tests" means tests required, consistent with Sections 53A-1-601 through 53A-1-611, to be administered to all students in identified subjects at the specified grade levels.

J. "USOE" means the Utah State Office of Education.

R277-473-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-603(3) which directs the Board to adopt rules for the conduct and administration of the testing programs and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide specific standards and procedures by which school districts shall handle and administer standardized tests.

R277-473-3. Time Periods for Administering and Returning Materials.

A. School districts shall require that by or before school year 2004-2005, all schools administer assessments required under Section 53A-1-603 according to the following schedule:

(1) All CRTs (elementary and secondary, English language arts, math, science) shall be given in a five week window beginning five weeks before the last Monday of the end of the course.

(2) The Utah Basic Skills Competency Test shall be given Tuesday, Wednesday, and Thursday of the first week of February and Tuesday, Wednesday, and Thursday of the third week of October.

(3) Sixth and ninth grade Direct Writing Assessment shall be given in a three week window beginning at least 14 weeks prior to the last day of school.

B. School districts shall require that all schools within the school district administer NRTs within the time period specified by the publisher of the test.

C. School districts shall submit all answer sheets for the CRT and NRT tests to DCS for scanning and scoring as follows:

(1) School districts with fewer than 25,000 students shall return CRT answer sheets no later than one week after testing is completed.

(2) School districts with 25,000 or more students shall

return CRT answer sheets no later than two weeks after testing is completed, except the science and math multiple choice tests, which shall be returned one week after testing is completed.

(3) School districts shall return NRT answer sheets no later than one week after the last day of the testing time period specified by the publisher of the test.

D. When determining the date of testing, schools on trimester schedules shall schedule the testing at the point in the course where students have had approximately the same amount of instructional time as students on a regular schedule and provide the schedule to the USOE. Basic skills courses ending in the first trimester of the year shall be assessed with the previous year's form of the CRTs.

E. Makeup opportunities shall be provided to students for the Utah Basic Skills Competency Test according to the following:

(1) Students shall be allowed to participate in makeup tests if they were not present for the entire Utah Basic Skills Competency Test or subtest(s) of the Utah Basic Skills Competency Test.

(2) School districts shall determine acceptable reasons for student makeup eligibility which may include absence due to serious illness, absence due to family emergency, or absence due to death of family member or close friend.

(3) School districts shall provide a makeup window not to exceed five school days immediately following the last day of each administration of the Utah Basic Skills Competency Test.

(4) School districts shall determine and notify parents in an appropriate and timely manner of dates, times, and sites of makeup opportunities for the Utah Basic Skills Competency Test.

R277-473-4. Security of Testing Materials.

A. All test questions and answers for all standardized tests required under Sections 53A-1-601 through 53A-1-611, shall be designated protected, consistent with Section 63-2-304(5), until released by the USOE. A student's individual answer sheet shall be available to parents under the federal Family Educational Rights and Privacy Act (FERPA), 20 USC, Sec. 1232g; 34 CFR Part 99).

B. The USOE shall maintain a record of all of the protected test materials sent to the school districts.

C. Each school district shall maintain a record of the number of booklets of all protected test materials sent to each school in the district, and shall submit the record to USOE upon request.

D. Each school district shall ensure that all test materials are secured in an area where only authorized personnel have access, or are returned to USOE following testing as required by the USOE. Individual educators shall not retain test materials, in either paper or electronic form beyond the time period allowed for test administration.

E. Individual schools within a school district shall secure or return paper test materials within three working days of the completion of testing. Electronic testing materials shall be secured between administrations of the test, and shall be removed from teacher and student access immediately following the final administration of the test.

F. The USOE shall ensure that all test materials sent to a district are returned as required by USOE, and may periodically audit school districts to confirm that test materials are properly accounted for and secured.

G. School district employees and school personnel may not copy or in any way reproduce protected test materials without the express permission of the specific test publisher, including the USOE.

R277-473-5. Format for Electronic Submission of Data.

A. DCS shall communicate regularly with school districts

regarding required formats for electronic submission of any required data.

B. School districts shall ensure that any computer software for maintaining school district data is, or can be made, compatible with DCS requirements and shall report data as required by the USOE.

R277-473-6. Format for Submission of Answer Sheets and Other Materials.

A. The USOE shall provide a checklist to each school district with directions detailing the format in which answer documents are to be collected, reviewed, and returned to the USOE.

B. Each school district shall verify that all the requirements of the testing checklist have been met.

C. CRT data may be submitted in batches in cooperation with the assigned DCS data technician.

R277-473-7. Timing for Return of Results to School Districts.

A. Scanning and scoring shall occur in the order data is received from the school districts.

B. Consistent with Utah law, raw test results from all CRTs shall be returned to the school before the end of the school year.

C. Each school district shall check all test results for each school within the district and for the district as a whole, verify their accuracy with DCS, and certify that they are prepared for publication within two weeks of receipt of the data. Except in compelling circumstances, as determined by the USOE, no changes shall be made to school or district data after this two week period. Compelling circumstances may include:

- (1) a natural disaster or other catastrophic occurrence (e.g., school fire) that precludes timely review of data; and
- (2) resolution of a professional practices issue that may impede reporting of the data.

D. Districts shall not release data until authorized to do so by the USOE.

R277-473-8. USOE and School Responsibilities for Crisis Indicators in State Assessments.

A. Students participating in state assessments may reveal intentions to harm themselves or others, that the student is at risk of harm from others, or may reveal other indicators that the student is in a crisis situation.

B. The USOE shall notify the school principal, counselor or other school or district personnel who the USOE determines have legitimate educational interests, whenever the USOE determines, in its sole discretion, that a student answer indicates the student may be in a crisis situation.

C. As soon as practicable, the district superintendent, or designee shall be given the name of the individual contacted at the school regarding a student's potential crisis situation.

D. The USOE shall provide the school and district with a copy of the relevant written text.

E. Using their best professional judgment, school personnel contacted by USOE shall notify the student's parent, guardian or law enforcement of the student's expressed intentions as soon as practical under the circumstances.

F. The text provided by USOE shall not be part of the student's record and the school shall destroy any copies of the text once the school or district personnel involved in resolution of the matter determine the text is no longer necessary. The school principal shall provide notice to the USOE of the date the text is destroyed.

G. School personnel who contact a parent, guardian or law enforcement agency in response to the USOE's notification of potential harm shall provide the USOE with the name of the person contacted and the date of the contact within three

business days from the date of contact.

R277-473-9. Standardized Testing Rules and Professional Development Requirement.

A. It is the responsibility of all educators to take all reasonable steps to ensure that standardized tests reflect the ability, knowledge, aptitude, or basic skills of each individual student taking standardized tests.

B. School districts shall develop policies and procedures consistent with the law and Board rules for standardized test administration, make them available and provide training to all teachers and administrators.

C. At least twice each school year, school districts shall provide professional development for all teachers, administrators, and standardized test administrators concerning guidelines and procedures for standardized test administration, including teacher responsibility for test security and proper professional practices, R686-103-6(I).

D. All teachers and test administrators shall conduct test preparation, test administration, and the return of all protected test materials in strict accordance with the procedures and guidelines specified in test administration manuals, school district rules and policies, Board rules, and state application of federal requirements for funding.

E. Teachers, administrators, and school personnel shall not:

- (1) provide students directly or indirectly with specific questions, answers, or the subject matter of any specific item in any standardized test prior to test administration;

- (2) copy, print, or make any facsimile of protected testing material prior to test administration without express permission of the specific test publisher, including USOE, and school district administration;

- (3) change, alter, or amend any student answer sheet or any other standardized test materials at any time in such a way as to alter the student's intended response;

- (4) use any prior form of any standardized test (including pilot test materials) in test preparation without express permission of the specific test publisher, including USOE, and school district administration;

- (5) violate any specific test administration procedure or guideline specified in the test administration manual, or violate any state or school district standardized testing policy or procedure;

- (6) knowingly and intentionally do anything that would inappropriately affect the security, validity, or reliability of standardized test scores of any individual student, class, or school;

F. Violation of any of these rules may subject licensed educators to possible disciplinary action under Rules of Professional Practices and Conduct for Utah Educators, R686-103-6(I).

**KEY: educational testing
January 4, 2005**

**Art X Sec 3
53A-1-603(3)
53A-1-401(3)**

R277. Education, Administration.**R277-733. Adult Education Programs.****R277-733-1. Definitions.**

A. "Adult" means a person 18 years of age or over.

B. "Adult basic education (ABE)" means a program that provides instruction for adults whose inability to compute or speak, read, or write the English language at or below the eighth grade level substantially impairs their ability to find or retain employment commensurate with their real ability. The instruction is designed to help adults by:

- (1) increasing their independence;
- (2) improving their ability to benefit from occupational training;
- (3) increasing opportunities for more productive and profitable employment; and
- (4) making them better able to meet adult responsibilities.

C. "Adult education" means a program that provides instruction for eligible adult education students who are seeking:

- (1) a certificate of graduation from an accredited high school;
- (2) a GED Certificate of Completion;
- (3) English acquisition skills to compute, speak, read, or write the English language; or
- (4) competency functioning levels for adults who are currently assessed below the eighth grade level of competency; or

(5) programs/courses to assist adults in becoming literate and obtaining the academic knowledge and skills necessary for employment and self-sufficiency; and

Adult education programs/courses may also be made available to public education students who are younger than 18 as determined necessary by local adult education programs.

D. "Adult high school education" means a program that provides instruction in Board-approved subjects which leads to a high school diploma for adults.

E. "Board" means the Utah State Board of Education.

F. "Consumable items" means student workbooks, student packets, computer disks, pencils, papers, notebooks, and other similar personal items over which a student retains ownership during the course of study.

G. "Eligible adult education student" means a person who is a legal resident of the United States, makes his true and permanent home in Utah, and:

- (1) is 17 years of age or older, and whose high school class has graduated;
- (2) is under 18 years of age and is married; or
- (3) has been adjudicated as an adult.

H. "Enrollees" means adult students who have 12 or more contact hours within the adult education program.

I. "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through a school. All fees are subject to approval by the local school board of education.

J. "GED" means General Education Development. A program to provide instruction in subjects which leads to a GED certificate of completion.

K. "GED Certificate of Completion" means a certificate issued by the Board acknowledging competency on the part of the certificate holder in the GED test areas.

L. "Latest official census data" means statistical information used to determine the number of adults who need adult education services, and determined by:

- (1) individuals 18 years of age and older with less than a ninth grade education; or
- (2) individuals 18 years of age and older whose primary language is other than English; or

(3) individuals 18 years of age and older without a high school diploma -- ungraduated adults.

M. "Measurable outcomes" means education results that lead to student progress in adult education. Funding is determined by measurable outcome percentages under R277-733-9.

N. "Other eligible adult education student" means a person 16 to 18 years of age whose high school class has not graduated and is counted in the regular school program. The funds generated are credited to the adult education program.

O. "Tuition" means the base cost of an adult education program providing services to the adult education student.

P. "USOE" means the Utah State Office of Education.

R277-733-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, Section 53A-15-401 which places the general control and supervision of adult education under the Board, Section 53A-1-402(1) which allows the Board to adopt minimum standards for programs and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program.

R277-733-3. Federal Adult Education.

The Board adopts the Adult Education and Family Literacy Act, Chapter 2, Public Law 105-220, 20 U.S.C. 1201 et seq., hereby incorporated by reference, and the related current state plan required under that statute, as the standards and procedures governing the federally-funded portion of its adult education program, available from the USOE Adult Education Section.

R277-733-4. Program Standards.

A. Each eligible adult education student shall have a written Student Educational/Occupational Plan based upon an analysis of the student's goals and objectives, prior academic achievement, work experience and placement assessment data. The plan shall be signed by the student and a designated local school official.

B. Local adult education programs shall make reasonable efforts to inform prospective students of the availability of the programs and provide enrollment information widely.

C. Only courses identified in R277-733-7 qualify for adult education funds. Only 25 percent of an adult education student's credits toward graduation may be electives as identified under R277-733-7.

D. Local adult education programs shall comply with state and federal requirements and Board rules. The USOE shall evaluate local programs to determine compliance.

R277-733-5. Fiscal Procedures.

A. State funds appropriated for adult education are allocated in accordance with Section 53A-17a-119.

B. No eligible school district shall receive less than its portion of a seven percent base amount of the state appropriation if:

(1) instructional services approved by the USOE Adult Education Services have been provided to eligible adult students during the preceding fiscal year; or

(2) the district is preparing to offer such services--such a preparation period may not exceed two years.

C. Lapsing and nonlapsing funds

(1) Funds appropriated for adult education programs are subject to Board accounting, auditing, and budgeting rules.

(2) State adult education funds which are allocated to local adult education programs and are not expended in a fiscal year

may be carried over to the next fiscal year with written approval by the USOE. These funds may be considered in determining the district's allocation for the next fiscal year.

D. The USOE shall develop uniform forms, deadlines, program reporting and accounting procedures, and guidelines to govern the state and federal adult basic skills and adult high school programs. The "Adult Education Guidelines for Fiscal, Student, and Program Accounting and Reporting" manual, July, 2003, includes these forms, procedures and guidelines and is available from the USOE.

R277-733-6. Adult Education Pupil Accounting.

A. A student under 19 years of age who has not graduated and who is a resident of the district, may, with approval under the state administered Adult Education Program, enroll in the Adult Basic and Adult High School Completion Program and generate regular state WPU's at the rate of 990 clock hours of membership per one weighted pupil unit per year, 1 FTE on a yearly basis. The clock hours of students enrolled part-time must be prorated.

B. A student 17 years of age or over, without a high school diploma but whose high school class has graduated, who resides in the state of Utah, and who intends to graduate from high school, may enroll in the State Adult High School Completion Program. Student attendance up to 990 clock hours of membership is equivalent to 1 FTE per year.

(1) The clock hours of students enrolled part-time shall be prorated.

(2) As an alternative, equivalent weighted pupil units may be generated for competencies mastered on the basis of prior authorization of a district plan by the USOE.

R277-733-7. Adult Basic Education and Adult High School Education Curriculum.

A. Adult basic education shall consist of the following prerequisite courses to subsection R277-733-7B below:

(1) English for Speakers of Other Languages (ESOL) competency levels one through six.

(2) Adult Basic Education (ABE) competency levels one through four.

B. Adult secondary education (ASE) shall satisfy ASE competency levels I and II requirements with a minimum of 24 credits as provided below:

(1) Adult High School General Core Courses: 13.5 units of credit required:

- (a) English: 3.0;
- (b) mathematics: 2.0, elementary algebra or above;
- (c) science: 2.0, with a maximum of one credit in at least two of the following areas: (1) chemistry; (2) biological science; (3) earth science; (4) physics;
- (d) social studies: 3.0, 1.0 in United States history or American government; .5 in geography; .5 in world studies; 1.0 in elective social studies;
- (e) information technology: .5;
- (f) career and technical education: 1.0;
- (g) fine arts: 1.0;
- (h) healthy life styles: 1.0.

(2) Adult High School completion shall satisfy requirements outlined in R277-600-6 and shall be consistent with R277-733-4C.

R277-733-8. Adult Education Programs--Tuition and Fees.

A. Any adult may enroll in an adult education class as provided in Section 53A-15-404.

B. Tuition and fees shall be charged for literacy courses and adult high school general courses in an amount not to exceed \$100 annually per student based on the student's ability to pay as determined by federal free and reduced lunch guidelines, under the Richard B. Russell National School Lunch

Act, 42 USC 1751, et seq. The appropriate student fees and tuition shall be determined by the local school board.

C. Adult education tuition and fees shall be waived or students shall be offered appropriate work in lieu of waivers for students who are younger than 18, qualify for fee waivers under R277-407, and their class has not graduated.

D. Tuition may be charged for courses that satisfy requirements outlined in R277-700-6 and subject to R277-733-4C, when adequate state or local funds are not available.

E. Fees may be charged for consumable and nonconsumable items necessary for adult high school general core courses, courses that satisfy requirements outlined in R277-700-6 and subject to R277-733-4C, and adult high school general core courses, consistent with the definitions under R277-733-1F and R277-733-1I.

R277-733-9. Allocation of Adult Education Funds.

Adult education funds shall be distributed to school districts according to the following:

A. Base amount - 7 percent of appropriation or \$13,000, whichever is greater, to be distributed equally to each district with USOE-approved plan.

B. Latest official census data, as defined in R277-733-1L, at a decreasing rate per year until reaching zero percent: 15 percent of appropriation for FY 04, 10 percent for FY 05, five percent for FY 06, zero percent for FY 07, and zero percent thereafter.

C. Measurable outcomes, as defined in R277-733-1M, on an increasing rate per year until reaching 50 percent: 35 percent of appropriation for FY 04, 40 percent for FY 05, 45 percent for FY 06, and 50 percent for FY 07 and 50 percent thereafter. Funds shall be distributed among measurable outcomes as follows:

(1) number of high school diplomas awarded - 30 percent of the total funds available;

(2) number of GED certificates awarded - 25 percent of the total funds available;

(3) number of level gains: ESOL levels 1-6 and ABE competency levels 1-4 - 30 percent of the total funds available;

(4) number of high school credits earned by students - 15 percent of the total funds available.

D. Enrollees as defined by federal regulations - 25 percent of appropriation.

E. Supplemental support, to be distributed to school districts for special program needs or professional development as determined by written request and USOE evaluation of need and approval - 2 percent or balance of appropriation whichever is smaller.

F. Student participation, total number of contact hours between adult student and adult education program - 16 percent.

KEY: adult education

February 1, 2005

Notice of Continuation October 18, 2002

Art X Sec 3

53A-15-401

53A-1-402(1)

53A-1-401(3)

53A-15-404

53A-12-101

R307. Environmental Quality, Air Quality.**R307-110. General Requirements: State Implementation Plan.****R307-110-1. Incorporation by Reference.**

To meet requirements of the Federal Clean Air Act, the Utah State Implementation Plan must be incorporated by reference into these rules. Copies of the Utah State Implementation Plan are available at the Utah Department of Environmental Quality, Division of Air Quality.

R307-110-2. Section I, Legal Authority.

The Utah State Implementation Plan, Section I, Legal Authority, as most recently amended by the Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-3. Section II, Review of New and Modified Air Pollution Sources.

The Utah State Implementation Plan, Section II, Review of New and Modified Air Pollution Sources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-4. Section III, Source Surveillance.

The Utah State Implementation Plan, Section III, Source Surveillance, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-5. Section IV, Ambient Air Monitoring Program.

The Utah State Implementation Plan, Section IV, Ambient Air Monitoring Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-6. Section V, Resources.

The Utah State Implementation Plan, Section V, Resources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-7. Section VI, Intergovernmental Cooperation.

The Utah State Implementation Plan, Section VI, Intergovernmental Cooperation, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-8. Section VII, Prevention of Air Pollution Emergency Episodes.

The Utah State Implementation Plan, Section VII, Prevention of Air Pollution Emergency Episodes, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-9. Section VIII, Prevention of Significant Deterioration.

The Utah State Implementation Plan, Section VIII, Prevention of Significant Deterioration, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control

Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on July 3, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-11. Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on November 3, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone, as most recently amended by the Utah Air Quality Board on September 9, 1998, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-14. Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-15. Section IX, Control Measures for Area and Point Sources, Part F, Lead.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part F, Lead, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-16. (Reserved.)

Reserved.

R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on June 5, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-18. Reserved.

Reserved.

R307-110-19. Section XI, Other Control Measures for Mobile Sources.

The Utah State Implementation Plan, Section XI, Other Control Measures for Mobile Sources, as most recently amended by the Utah Air Quality Board on February 9, 2000, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-20. Section XII, Involvement.

The Utah State Implementation Plan, Section XII,

Involvement, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-21. Section XIII, Analysis of Plan Impact.

The Utah State Implementation Plan, Section XIII, Analysis of Plan Impact, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-22. Section XIV, Comprehensive Emission Inventory.

The Utah State Implementation Plan, Section XIV, Comprehensive Emission Inventory, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-23. Section XV, Utah Code Title 19, Chapter 2, Air Conservation Act.

Section XV of the Utah State Implementation Plan contains Utah Code Title 19, Chapter 2, Air Conservation Act.

R307-110-24. Section XVI, Public Notification.

The Utah State Implementation Plan, Section XVI, Public Notification, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-25. Section XVII, Visibility Protection.

The Utah State Implementation Plan, Section XVII, Visibility Protection, as most recently amended by the Utah Air Quality Board on March 26, 1993, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-26. R307-110-26 Section XVIII, Demonstration of GEP Stack Height.

The Utah State Implementation Plan, Section XVIII, Demonstration of GEP Stack Height, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-27. Section XIX, Small Business Assistance Program.

The Utah State Implementation Plan, Section XIX, Small Business Assistance Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-28. Regional Haze.

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on May 5, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-29. Section XXI, Diesel Inspection and Maintenance Program.

The Utah State Implementation Plan, Section XXI, Diesel Inspection and Maintenance Program, as most recently amended by the Utah Air Quality Board on July 12, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-30. Section XXII, General Conformity.

The Utah State Implementation Plan, Section XXII,

General Conformity, as adopted by the Utah Air Quality Board on October 4, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as most recently amended by the Utah Air Quality Board on March 31, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-33. Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County, as most recently amended by the Utah Air Quality Board on October 6, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-34. Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County, as most recently amended by the Utah Air Quality Board on March 31, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County, as most recently amended by the Utah Air Quality Board on November 3, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

January 4, 2005

19-2-104(3)(e)

Notice of Continuation March 27, 2002

R309. Environmental Quality, Drinking Water.**R309-305. Certification Rules for Backflow Technicians.****R309-305-1. Purpose.**

These rules are established:

- (1) in order to promote the use of trained, experienced professional personnel in protecting the public's health; and
- (2) To establish standards for training, examination, and certification of those personnel involved with cross connection control program administration, testing, maintenance, and repair of backflow prevention assemblies. In addition to establishing standards for the instruction of Backflow Technicians.

R309-305-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(4)(a) of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-305-3. Extent of Coverage.

These rules shall apply to all personnel who will be:

- (1) directly involved with the administration or enforcement of any cross connection control program being administered by a drinking water system; or
- (2) testing, maintaining and/or repairing any backflow prevention assembly; or
- (3) instructors within the certification program, regardless of institution or program.

R309-305-4. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

(1) Backflow Technician - An individual who has met the requirements and successfully completed the course of instruction and certification requirements for Class I, II or III backflow technician certification as outlined herein.

(a) Class I Backflow Technician is a Cross Connection Control Program Administrator.

(b) Class II Backflow Technician is a Backflow Assembly Tester.

(c) Class III Backflow Technician is a Backflow Instructor Trainer.

(2) Class - means the level of certification of a Backflow Technician (Class I, II or III).

(3) Performance Examination - means a closed book hands on demonstration of an individual's ability to conduct a field test on backflow prevention assemblies.

(4) Proctor - means a Class III Technician authorized to administer the written or the performance examination.

(5) Renewal Course - means a course of instruction, approved by the Commission, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

(6) Secretary to the Commission - means that individual appointed by the Executive Secretary to conduct the business of the Commission and to make recommendations to the Executive Secretary regarding backflow technician certification.

(7) Written Examination - means the examination for record used to determine the competency and ability of applicants in understanding of the required course of instruction.

R309-305-5. General Policies.

(1) Certification Application: Any individual may apply for certification.

(2) Certification Classes: The classes of certificates shall be: Class I, Class II, and Class III.

(a) Class I Backflow Technician - Cross Connection Control Program Administrator: This certificate shall be issued to those individuals who are directly involved in administering a cross connection control program, who have demonstrated

their knowledge and ability by passing the certification examination.

(i) These individuals may NOT test, maintain or repair any backflow prevention assembly for record (except to insure proper testing techniques are being utilized within their jurisdiction).

(ii) These individuals may conduct plan/design reviews, hazard assessment investigations, compliance inspections, and enforce local laws, codes, rules and regulations and policies within their jurisdictions, and offer technical assistance as needed.

(b) Class II Backflow Technician - Backflow Assembly Tester: This certificate shall be issued to those individuals who have demonstrated their knowledge and ability by passing the written and performance certification examinations and in addition having proven qualified and competent to test, maintain, and/or repair (see R309-305-5(3)(b)) backflow prevention assemblies (commercially as well as within their jurisdiction) by passing the practical examination.

(c) Class III Backflow Technician - Backflow Instructor Trainer: This certificate shall be issued to those individuals who have successfully completed a 3 year renewal cycle as a Class II Technician and in addition have proven qualified and competent to instruct approved Backflow Technician Certification classes by participating in and passing an approved Class III certification course.

(3) Certification Requirements: Those individuals seeking certification as a Backflow Technician must participate in an approved Technician's course of instruction and pass the examination required per class of certification.

(a) All individuals who instruct Backflow Technician training courses must hold a current Class III - Backflow Technician certificate.

(b) The issuance of a Backflow Technician certificate (Class I, II or III) does NOT authorize that individual to install or replace any backflow prevention assembly. The installation replacement or repair of assemblies must be made by a tester having appropriate licensure from the Department of Commerce, Division of Occupational and Professional Licensing, except when the Backflow Technician is an agent of the assembly owner.

R309-305-6. Technician Responsibilities.

(1) All technicians shall notify the Division of Drinking Water, local health department and the appropriate public water system of any backflow incident as soon as possible, but within eight hours. The Division can be reached during business hours at 801-536-4200 or after hours at 801-536-4123;

(2) All technicians shall notify the appropriate public water system of a failing backflow prevention assembly within five days;

(3) All technicians shall ensure that acceptable procedures are used for testing, repairing and maintaining any backflow prevention assembly;

(4) All technicians shall report the backflow prevention assembly test results to the appropriate public water system within 30 days;

(5) All technicians shall include, on the test report form, any materials or replacement parts used to effect a repair or to perform maintenance on a backflow prevention assembly;

(6) All technicians shall ensure that any replacement part is equal to or greater than the quality of parts originally supplied within the backflow prevention assembly and are supplied only by the manufacturer or their agent;

(7) All technicians shall not change the design, material, or operational characteristics of the assembly during any repair or maintenance;

(8) All technicians shall perform each test and shall be responsible for the competency and accuracy of all testing and

reports thereof;

(9) All technicians shall ensure the status of their technician certification is current; and

(10) All technicians shall be equipped with and competent in the use of all tools, gauges, and equipment necessary to properly test, repair and maintain a backflow prevention assembly.

R309-305-7. Examinations.

(1) Exam Issuance: The examination recognized by the Commission for certification shall be issued through the Division of Drinking Water for both initial certification and renewal of certification.

If an individual fails an examination, the individual may file another application for reexamination on the next available test date.

(a) Examinations (both written and performance) that are used to determine competency and ability shall be approved by the Cross Connection Control Commission prior to being issued.

(b) Oral examinations may be administered to an individual who has failed to pass at least two consecutive written examinations. The oral examination shall be administered by at least one Commission member and two Class III Backflow Technicians. If the individual fails the examination, he shall be given written notification of those areas deficient.

(2) Exam Scoring: Class I, Class II and Class III Technician's must successfully complete a written exam with a score of 70% or higher. Class II Technician's must also successfully demonstrate competence and ability in the performance examination, for the testing of a Pressure Vacuum Breaker Assembly, a Spill-Resistant Pressure Vacuum Breaker Assembly, a Double Check Valve Assembly, and a Reduced Pressure Principal Backflow Prevention Assembly.

(a) The performance examination shall be conducted by a minimum of two Class III Technicians.

(b) Each candidate must demonstrate competence and shall be evaluated by a proctor and assessed a pass or fail grade in each of the following areas.

- (i) Properly identify backflow assembly
- (ii) Properly identify test equipment needed
- (iii) Properly connect test equipment
- (iv) Test assembly
- (v) Identify inaccuracies
- (vi) Properly diagnose assembly problems
- (vii) Properly record test results

The candidate must receive a pass grade from the proctor in all areas listed above for each assembly tested in order to pass the performance examination.

(c) An individual may apply for reexamination of either portion of the examination a maximum of two times. After a third failing grade, the individual must register for and complete another technician's course prior to any further reexamination.

(3) Class III Exam: Class III Technicians must participate in, and pass, a Class III Certification course, approved by the Cross Connection Control Commission, in addition to the successful completion of the Class II Technician's certification course.

R309-305-8. Certificates.

(1) Certificate Issuance: For a certificate to be issued, the individual must complete a Technician's training course and pass with a minimum score of 70% the written examination. For Class II and III certificates, passing marks on the performance examination shall also be required.

(2) Certificate Renewal: The Backflow Technician's certificate is issued by the Executive Secretary and shall expire December 31, three years from the year of issuance.

(a) Backflow Technician certificates shall be issued by the Commission Secretary, by delegated authority from the Drinking Water Board.

(b) The Backflow Technician's certificate may be renewed up to six months in advance of the expiration date.

(c) To renew a Class I or II Technician certificate, the Technician must register and participate in an approved backflow prevention renewal course, and pass the renewal examination (minimum score of 70%) which shall include a performance portion for Class II Certification.

(d) To renew a Class III Technician certificate, the following criteria shall be met:

(i) In the 3 year certification period a total of three events from the following list shall be obtained in any combination:

(A) Instruction at a Commission approved backflow technician certification or renewal course.

(B) Serve as a proctor for the performance examination at a Commission approved backflow technician certification or renewal course.

(ii) Attendance at a minimum of two of the annual Class III coordination meetings or receive a meeting update from the Commission Secretary.

(iii) Attendance and successful review at a Class III renewal course, as approved by the Cross Connection Control Commission. The course would consist of presentation of a randomly picked topic in backflow prevention before a peer group of other Class III technicians, and a demonstration of knowledge of all the testing equipment available by a random selection of test equipment for the technician to perform the performance exam.

(e) Should the applicant fail the renewal written examination (minimum score of 70%), renewal of that existing license shall not be allowed until a passing score is obtained. If the applicant fails to pass the test after three attempts, the applicant shall be required to participate in an approved Backflow Technician's course before retaking the written and performance examinations. (Class I Technicians only need to pass the written examination.)

(3) Certification Revocation: The Executive Secretary may suspend or revoke a Backflow Technician's certification, for good cause, including any of the following:

(a) The certified person has acted in disregard for public health or safety;

(b) The certified person has engaged in activities beyond the scope of their licensure through the Department of Commerce, Division of Professional Licensing (i.e. installation, or replacement of assemblies);

(c) The certified person has misrepresented or falsified figures or reports concerning backflow prevention assembly or test results;

(d) The certified person has failed to notify proper authorities of a failing backflow prevention assembly within five days, as required by R309-305-6(2);

(e) The certified person has failed to notify proper authorities of a backflow incident for which the technician had personal knowledge, as required by R309-305-6(1);

(f) The certified person has implemented a change of the design, material or operational characteristics of a backflow prevention assembly that is in use, and which has not been authorized by the Executive Secretary; or

(g) Disasters or "Acts of God", which could not be reasonably anticipated or prevented, shall not be grounds for suspension or revocation actions.

R309-305-9. Fees.

(1) Fees: The fees for certification shall be submitted in accordance with Section 63-38-3.2.

(2) All fees shall be deposited in a special account to defray the costs of administering the Cross Connection Control

and Certification programs.

(3) **Renewal Fees:** The renewal fee for all classes of Technicians shall be in accordance with Section 63-38-3.2.

(4) All fees shall be deposited in a special account to defray the cost of the program.

(5) All fees are non-refundable.

R309-305-10. Training.

(1) **Training:** Minimum training course curriculum, written tests and performance tests shall be established by the Commission and implemented by the Secretary of the Commission for both the Technician Class I and Class II courses and the renewal courses.

(a) The length of the initial certification course for a Class I cross connection control program administrator shall be a minimum of 32 hours including examination.

(b) The length of the initial certification course for a Class II backflow assembly tester shall be a minimum of 32 hours excluding examination.

(c) The length of each renewal course shall be a minimum of 16 hours including the renewal examination (both written and performance examinations).

R309-305-11. Cross Connection Control Commission.

(1) **Appointment of Members:** A Cross Connection Control Commission shall be appointed by the Drinking Water Board from nominations made by cooperating agencies.

(2) **Responsibility:** The Commission is charged with the responsibility of conducting all work necessary to promote the cross connection program as well as recommending qualified individuals for certification, and overseeing the maintenance of necessary records.

(3) **Representative Agencies:** The Commission shall consist of seven members:

(a) One member (nominated by the League of Cities and Towns) shall represent a community drinking water supply.

(b) One member (nominated by the Utah Pipes Trades Education Program) shall represent the plumbing trade and must be a licensed Journeyman Plumber.

(c) One member (nominated by the Utah Mechanical Contractors Association) shall represent the mechanical trade contractors.

(d) One member (nominated by the Drinking Water Board) shall represent the Drinking Water Board.

(e) One member (nominated by the Rural Water Association of Utah) shall represent small water systems.

(f) One member (nominated by the Utah Chapter American Backflow Prevention Association) shall represent Class II Backflow Technicians and shall be a Class II or III Backflow Technician.

(g) One member (nominated by the Utah Association of Plumbing and Mechanical Officials) shall represent plumbing inspection officials and shall be a licensed plumbing inspector.

(4) **Term:** Each member shall serve a two year term. At the initial meeting of the Commission, lots shall be drawn corresponding to two one and three two year terms. Thereafter, all Commission members' terms shall be on a staggered basis.

(5) **Nominations of Members:** All nominations of Commission members shall be presented to the Drinking Water Board, which reserves the right to refuse any nomination.

(6) **Unexpired Term:** An appointment to succeed a Commission member who is unable to complete his full term shall be for the unexpired term only, and shall be nominated to, and appointed by, the Drinking Water Board in accordance with R309-305-11(1).

(7) **Quorum:** At least four Commission members shall be required to constitute a quorum to conduct the Commission's business.

(8) **Officers:** Each year the Commission shall elect officers

as needed to conduct its business.

(a) The Commission shall meet at least once a year.

(b) All actions taken by the Commission shall require a minimum of four affirmative votes.

R309-305-12. Secretary of the Commission.

(1) **Appointment:** The Executive Secretary of the Drinking Water Board shall appoint, with the consent of the Commission, a staff member to function as the Secretary to the Commission. This Secretary shall serve to coordinate the business of the Commission and to bring issues before the Commission.

(2) **Duties:** The Secretary's duties shall be to:

(a) act as a liaison between the Commission, certified Technicians, public water suppliers, and the public at large;

(b) maintain records necessary to implement and enforce these rules;

(c) notify sponsor agencies of Commission nominations as needed;

(d) coordinate and review all cross connection control programs, certification training and the certification of Backflow Technicians;

(e) serve as a source of public information for Certified Technicians, water purveyors, and the public at large;

(f) receive and process applications for certification;

(g) investigate and verify all complaints against or concerning certified Backflow Prevention Technicians, and advise the Executive Secretary of the Drinking Water Board regarding any enforcement actions that are being recommended by the Commission;

(h) develop and administer examinations;

(i) review and correct examinations.

(3) The Secretary to the Commission is also responsible for making recommendations to the Executive Secretary regarding backflow technician certification as provided in these rules.

KEY: drinking water, cross connection control, backflow assembly tester

October 15, 2004

Notice of Continuation April 10, 2000

19-4-104(4)(a)

63-46b-4

R313. Environmental Quality, Radiation Control.**R313-34. Requirements for Irradiators.****R313-34-1. Purpose and Authority.**

(1) Rule R313-34 prescribes requirements for the issuance of licenses authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate objects or materials using gamma radiation.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).

(3) The requirements of Rule R313-34 are in addition to, and not in substitution for, the other requirements of these rules.

R313-34-2. Scope.

(1) Rule R313-34 shall apply to panoramic irradiators that have either dry or wet storage of the radioactive sealed sources; underwater irradiators in which both the source and the product being irradiated are under water; and irradiators whose dose rates exceed 5 grays (500 rads) per hour at 1 meter from the radioactive sealed sources in air or in water, as applicable for the irradiator type.

(2) The requirements of Rule R313-34 shall not apply to self-contained dry-source-storage irradiators in which both the source and the area subject to irradiation are contained within a device and are not accessible by personnel, medical radiology or teletherapy, the irradiation of materials for nondestructive testing purposes, gauging, or open-field agricultural irradiations.

R313-34-3. Clarifications or Exemptions.

For purposes of Rule R313-34, 10 CFR 36, 2001 ed., is incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following 10 CFR sections: 36.1, 36.5, 36.8, 36.11, 36.17, 36.19(a), 36.91, and 36.93;

(2) The substitution of the following:

(a) Radiation Control Act for Atomic Energy Act of 1954;

(b) Utah Radiation Control Rules for the reference to NRC regulations and the Commission's regulations;

(c) The Executive Secretary or the Executive Secretary's for the Commission or the Commission's, and NRC in the following 10 CFR sections: 36.13, 36.13(f), 36.15, 36.19(b), 36.53(c), 36.69, and 36.81(a), 36.81(d) and 36.81(e); and

(d) In 10 CFR 36.51(a)(1), Rule R313-15 for NRC;

(3) Appendix B of 10 CFR Part 20 refers to the 2001 ed. of 10 CFR; and

(4) The substitution of Title R313 references for the following 10 CFR references:

(a) Section R313-12-51 for reference to 10 CFR 30.51;

(b) Rule R313-15 for the reference to 10 CFR 20;

(c) Subsection R313-15-501(3) for the reference to 10 CFR 20.1501(c);

(d) Section R313-15-902 for the reference to 10 CFR 20.1902;

(e) Rule R313-18 for the reference to 10 CFR 19;

(f) Section R313-19-41 for the reference to 10 CFR 30.41;

(g) Section R313-19-50 for the reference to 10 CFR 30.50;

(h) Section R313-22-33 for the reference to 10 CFR 30.33;

(i) Section R313-22-210 for the reference to 10 CFR 32.210;

(j) Section R313-22-35 for the reference to 10 CFR 30.35;

and

(k) Rule R313-70 for the reference to 10 CFR 170.31.

KEY: irradiator, survey, radiation, radiation safety

September 14, 2001

19-3-104

Notice of Continuation April 3, 2000

R317. Environmental Quality, Water Quality.
R317-7. Underground Injection Control (UIC) Program.
R317-7-0. Effective Date and Applicability of Rules.

The effective date of these rules is January 19, 1983 (40 C.F.R. 147.2250). Class II wells are administered by the Division of Oil, Gas and Mining, whose primacy became effective October 8, 1982 (40 C.F.R. 147.2251).

R317-7-1. Incorporation By Reference.

1.1 Underground Injection Control Program - 40 C.F.R. 144.7, 144.13(d), 144.14, 144.16, 144.23(c), 144.32, 144.34, 144.36, 144.38, 144.39, 144.40, 144.41, 144.51(a)-(o) and (q), 144.52, 144.53, 144.54, 144.55, 144.60, 144.61, 144.62, 144.63, 144.64, 144.65, 144.66, 144.70, and 144.87, July 1, 2003 ed., are adopted and incorporated by reference with the following exceptions:

A. "Director" is hereby replaced with "Executive Secretary".

B. "one quarter mile" is hereby replaced with "two miles".

1.2 Underground Injection Control Program - Criteria and Standards - 40 C.F.R. 146.4, 146.6, 146.7, 146.8, 146.12, 146.13(d), 146.14, 146.32, 146.34, 146.61, 146.62, 146.63, 146.64, 146.65, 146.66, 146.67, 146.68, 146.69, 146.70, 146.71, 146.72, and 146.73, July 1, 2003 ed., are adopted and incorporated by reference with the following exceptions:

A. "Director" is hereby replaced with "Executive Secretary";

B. "one quarter (1/4) mile" and "one-fourth (1/4) mile" are each hereby replaced with "two miles".

1.3 Hazardous Waste Injection Restrictions - 40 C.F.R. Part 148, July 1, 2003 ed., is adopted and incorporated by reference with the exception that "Director" is hereby replaced with "Executive Secretary".

1.4 Identification and Listing of Hazardous Waste - 40 C.F.R. Part 261, July 1, 2003 ed., is adopted and incorporated by reference.

1.5 National Primary Drinking Water Regulations - 40 C.F.R. Part 141, July 1, 2003 ed., is adopted and incorporated by reference.

1.6 Guidelines Establishing Test Procedures for the Analysis of Pollutants - 40 C.F.R. Part 136 Table 1B, July 1, 2003 ed., is adopted and incorporated by reference.

1.7 Nuclear Regulatory Commission - Standards for Protection Against Radiation - 10 C.F.R. Part 20 Appendix B, Table 2 Column 2, January 1, 2003 ed., is adopted and incorporated by reference.

1.8 Procedures for Decision Making - 40 C.F.R. 124.3(a); 124.5(a), (c), (d) and (f); 124.6(a), (c), (d) and (e); 124.8; 124.10(a)(1)ii, iii, and (a)(1)(V); 124.10(b), (c), (d), and (e); 124.11; 124.12(a); and 124.17(a) and (c), July 1, 2003 ed., are adopted and incorporated by reference with the exception that "Director" is hereby replaced by "Executive Secretary".

R317-7-2. Definitions.

2.1 "Abandoned Well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

2.2 "Application" means standard forms for applying for a permit, including any additions, revisions or modifications.

2.3 "Aquifer" means a geologic formation or any part thereof that is capable of yielding significant water to a well or spring.

2.4 "Area of Review" means the zone of endangering influence or fixed area radius determined in accordance with the provisions of 40 C.F.R. 146.6.

2.5 "Background Data" means the constituents or parameters and the concentrations or measurements which describe water quality and water quality variability prior to

surface or subsurface discharge.

2.6 "Barrel" means 42 (U.S.) gallons at 60 degrees F and atmospheric pressure.

2.7 "Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent water, gas, or other fluid from entering or leaving the hole.

2.8 "Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

2.9 "Catastrophic Collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

2.10 "Cementing" means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

2.11 "Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

2.12 "Confining Bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

2.13 "Confining Zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

2.14 "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

2.15 "Conventional Mine" means an open pit or underground excavation for the production of minerals.

2.16 "Disposal Well" means a well used for the disposal of fluids into a subsurface stratum.

2.17 "Drilling Mud" means mud of not less than 36 viscosity (A.P.I. Full Funnel Method) and a weight of not less than nine pounds per gallon.

2.18 "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

2.19 "Exempted Aquifer" means an aquifer or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures of 40 C.F.R. 144.7.

2.20 "Existing Injection Well" means an "injection well" other than a "new injection well."

2.21 "Experimental Technology" means a technology which has not been proven feasible under the conditions in which it is being tested.

2.22 "Fault" means a surface or zone of rock fracture along which there has been a displacement.

2.23 "Flow Rate" means the volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, turbine or passes along a conduit or channel.

2.24 "Fluid" means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

2.25 "Formation" means a body of rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

2.26 "Formation Fluid" means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as drilling mud.

2.27 "Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261.

2.28 "Groundwater" means water below the ground surface in a zone of saturation.

2.29 "Ground water protection area" refers to the drinking

water source protection zones for ground water sources delineated by the Utah Division of Drinking Water according to Utah Administrative Code R309-600 - Drinking Water Source Protection For Ground-Water Sources.

2.30 "Hazardous Waste" means a hazardous waste as defined in R315-2-3.

2.31 "Hazardous Waste Management Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

2.32 "Improved sinkhole" means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

2.33 "Injection Well" means a well into which fluids are being injected for subsurface emplacement of the fluids.

2.34 "Injection Zone" means a geological "formation," group of formations, or part of a formation receiving fluids through a well.

2.35 "Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

2.36 "Monitoring Well" means a well used to measure groundwater levels and to obtain water samples for water quality analysis.

2.37 "New Injection Well" means an injection well which began injection after January 19, 1983.

2.38 "Packer" means a device lowered into a well to produce a fluid-tight seal within the casing.

2.39 "Plugging" means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

2.40 "Plugging Record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

2.41 "Point of injection" means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box - the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

2.42 "Pressure" means the total load or force per unit area acting on a surface.

2.43 "Project" means a group of wells in a single operation.

2.44 "Professional Engineer" means any person qualified to practice engineering before the public in the state of Utah and professionally registered as required under the Professional Engineers and Professional Land Surveyors Licensing Act Rules (UAC R156-22).

2.45 "Professional Geologist" means any person qualified to practice geology before the public in the state of Utah and professionally registered as required under the Professional Geologist Licensing Act Rules (UAC R156-76).

2.46 "Radioactive Waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 C.F.R. Part 20, Appendix B, Table II Column 2.

2.47 "Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation,

clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

2.48 "Septic system" means a "well" that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

2.49 "Stratum" (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

2.50 "Subsidence" means the lowering of the natural land surface in response to earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (Hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

2.51 "Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

2.52 "Surface Casing" means the first string of well casing to be installed in the well.

2.53 "Total Dissolved Solids (TDS)" means the total residue (filterable) as determined by use of the method specified in 40 C.F.R. Part 136 Table 1B.

2.54 "Transferee" means the owner or operator receiving ownership and/or operational control of the well.

2.55 "Transferor" means the owner or operator transferring ownership and/or operational control of the well.

2.56 "Underground Injection" means a "well injection".

2.57 "Underground Sources of Drinking Water (USDW)" means an aquifer or its portion which:

A. Supplies any public water system, or which contains a sufficient quantity of ground water to supply a public water system; and

1. currently supplies drinking water for human consumption; or

2. contains fewer than 10,000 mg/l total dissolved solids (TDS); and

B. is not an exempted aquifer. (See Section 7-4).

2.58 "Well" means a bored, drilled or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or a subsurface fluid distribution system.

2.59 "Well Injection" means the subsurface emplacement of fluids through a well.

2.60 "Well Monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

2.61 "Well Plug" means a watertight and gas-tight seal installed in a borehole or well to prevent movement of fluids.

2.62 "Well Stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes:

- (1) surging;
- (2) jetting;
- (3) blasting;
- (4) acidizing; and
- (5) hydraulic fracturing.

R317-7-3. Classification of Injection Wells.

Injection wells are classified as follows:

3.1 Class I

A. Hazardous Waste Injection Wells: wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within two miles of the well bore, an underground source of drinking water;

B. Nonhazardous Injection Wells: other industrial and municipal waste disposal wells which inject nonhazardous fluids beneath the lowermost formation containing, within two miles of the well bore, an underground source of drinking water; this category includes disposal wells operated in conjunction with uranium mining activities.

C. Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within two miles of the well bore.

3.2 Class II. Wells which inject fluids:

A. which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with wastewaters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

B. for enhanced recovery of oil or natural gas; and

C. for storage of hydrocarbons which are liquid at standard temperature and pressure.

Class II injection wells are regulated by the Division of Oil, Gas and Mining under Oil and Gas Conservation General Rules, R649-5.

3.3 Class III. Wells which inject for extraction of minerals, including:

A. mining of sulfur by the Frasch process;

B. in situ production of uranium or other metals. This category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V; and

C. solution mining of salts or potash.

3.4 Class IV

A. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which, within two miles of the well, contains an underground source of drinking water;

B. wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes above a formation which, within two miles of the well, contains an underground source of drinking water;

C. wells used by generators of hazardous wastes or by owners or operators of hazardous waste management facilities, to dispose of hazardous wastes which cannot be classified under Section 7-3.1(A) or 7-3.4(A) and (B) of these rules (e.g. wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted).

3.5 Class V. Injection wells not included in Classes I, II, III, or IV. Class V wells include:

A. air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

B. large capacity cesspools, including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons per day;

C. cooling water return flow wells used to inject water

previously used for cooling;

D. drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

E. dry wells used for the injection of wastes into a subsurface formation;

F. recharge wells used to replenish the water in an aquifer;

G. salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

H. sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines, whether what is injected is radioactive waste or not;

I. septic systems used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons per day;

J. subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

K. stopes leaching, geothermal and experimental wells;

L. brine disposal wells for halogen recovery processes;

M. injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power; and

N. injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.

O. motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations (see 40 CFR Part 141 and Utah Primary Drinking Water Standards R309-200-5). These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which pose risks to human health.

R317-7-4. Identification of USDW'S and Exempted Aquifers.

The Executive Secretary shall identify USDW's and exempt aquifers following the procedures and based on the requirements outlined in 40 C.F.R. 144.7 and 40 C.F.R. 146.4.

R317-7-5. Prohibition of Unauthorized Injection.

5.1 Any underground injection is prohibited except as authorized by permit or as allowed under these rules.

5.2 No authorization by permit or by these rules for underground injection shall be construed to authorize or permit any underground injection which endangers a drinking water source.

5.3 Underground injections are prohibited which would allow movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation (40 C.F.R. Part 141 and Utah Primary Drinking Water Standards R309-200-5), or which may adversely affect the health of persons. Underground injections shall not be authorized if they may cause a violation of any ground water quality rules that may be promulgated by the Utah Water Quality Board. Any applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

5.4 For Class I and III wells, if any monitoring indicates the movement of injection or formation fluids into underground sources of drinking water, the Executive Secretary shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting, including closure of the injection well, as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit or the permit may be terminated, or appropriate enforcement action may be taken if the permit has been violated.

5.5 For Class V wells, if at any time the Executive Secretary determines that a Class V well may cause a violation of primary drinking water rules under R309-200, the Executive Secretary shall:

- A. require the injector to obtain an individual permit;
- B. order the injector to take such actions, including closure of the injection well, as may be necessary to prevent the violation; or
- C. take appropriate enforcement action.

5.6 Whenever the Executive Secretary determines that a Class V well may be otherwise adversely affecting the health of persons, the Executive Secretary may require such actions as may be necessary to prevent the adverse effect.

5.7 Class IV Wells

A. Prohibitions. The construction, operation or maintenance of any Class IV well is prohibited except as specified in 40 C.F.R. 144.13 (c) and 144.23(c) as limited by the definition of Class IV wells in Section 7-3.4 of these rules.

B. Plugging and abandonment requirements. Prior to abandoning a Class IV well, the owner or operator shall close the well in a manner acceptable to the Executive Secretary. At least 30 days prior to abandoning a Class IV well, the owner or operator shall notify the Executive Secretary of the intent to abandon the well.

5.8 Notwithstanding any other provision of this section, the Executive Secretary may take emergency action upon receipt of information that a contaminant which is present in, or is likely to enter a public water system, may present an imminent and substantial endangerment to the health of persons.

5.9 Records. The Executive Secretary may require, by written notice on a selective well-by-well basis, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with these rules.

R317-7-6. Permit and Compliance Requirements - New and Existing Wells.

6.1 The owner or operator of any new injection well is required to obtain a permit from the Executive Secretary prior to construction unless excepted by R317-7-6.3. Compliance with construction plans and standards is required prior to commencing injection operations. Changes in construction plans require approval of the Executive Secretary.

6.2 Owners or operators of existing underground injection wells are required to obtain a permit from the Executive Secretary unless specifically excepted by Section 7-6.3 of these rules.

6.3

A. Existing and new Class V injection wells are authorized by rule, subject to the conditions in Section 7-6.5 of these rules.

B. Well authorization under this Section 7-6.3 expires upon the effective date of a permit issued in accordance with these rules or upon proper closure of the well.

C. An owner or operator of a well which is authorized by rule under this Section 7-6.3 is prohibited from injecting into the well:

1. Upon the effective date of a permit denial.

2. Upon failure to submit a permit application in a timely manner if requested by the Executive Secretary under Section 7-6.4 of these rules.

3. Upon failure to submit inventory information in a timely manner in accordance with Section 7-6.4(C) of these rules.

6.4

A. The Executive Secretary may require any owner or operator of a Class I, III or V well authorized under Section 7-6.3 to apply for and obtain an individual or area permit. Cases where permits may be required include:

1. The injection well is not in compliance with the applicable rules.

2. The injection well is not or no longer is within the category of wells and types of well operations authorized by Section 7-6.3.

3. Protection of an USDW.

B. Any owner or operator authorized under Section 7-6.3 may request a permit and hence be excluded from coverage under Section 7-6.3.

C. Owners or operators of all injection wells regulated by Section 7-6.3 shall submit the following inventory information to the Executive Secretary:

1. facility name and location;
2. name and address of legal contact;
3. ownership of facility;
4. nature and type of injection wells; and
5. operating status of injection wells.

Inventory information shall be submitted no later than January 19, 1984 for existing injection wells and before injection begins for new injection wells.

6.5 Additional requirements for large-capacity cesspools and motor vehicle waste disposal wells (see Class V well descriptions in Sections 7-3.5(B) and 7-3.5(O), respectively).

A. All existing large-capacity cesspools (operational or under construction by April 5, 2000) must close by April 5, 2005. See closure requirements in Section 7-6.6.

B. All new or converted large-capacity cesspools (construction not started before April 5, 2000) are prohibited.

C. All existing motor vehicle waste disposal wells (operational or under construction by April 5, 2000) must either be closed or their owners or operators must obtain a UIC permit.

1. For those wells located within a ground water protection area as designated by the Utah Division of Drinking Water (DDW), closure or permit application submittal must take place within one year of completion of DDW's ground water protection area assessment for the pertinent area.

2. All motor vehicle waste disposal wells statewide located outside a ground water protection area must either be closed or their owners or operators must submit a UIC permit application by January 1, 2007.

3. If well closure is the option chosen, the closure requirements in Section 7-6.6 must be followed. The closure deadline may be extended by the Executive Secretary for up to one year under certain conditions, such as intent to connect to a sanitary sewer.

4. If obtaining a UIC permit is the option chosen, Utah Drinking Water Maximum Contaminant Levels (MCL's), Utah Ground Water Quality Standards, and EPA Adult Lifetime Health Advisories must be met at the point of injection while the permit application is under review. These standards must also be met at the point of injection under the terms of the permit, when issued. Utah Ground Water Protection Levels may be required to be met at downgradient ground water monitoring wells, if required to be installed. Such a permit may require pretreatment of the wastewater, and will require adherence to best management practices and monitoring of the quality of the injectate and any sludge generated.

D. All new or converted motor vehicle waste disposal wells (construction not started before April 5, 2000) are

prohibited.

6.6 Class V well plugging and abandonment requirements.

A. Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR Part 141 or Utah Primary Drinking Water Standards R309-200-5, or may otherwise adversely affect the health of persons.

B. The owner or operator shall dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

C. The owner or operator must notify the Executive Secretary of intent to close the well at least 30 days prior to closure.

6.7 Conversion of motor vehicle waste disposal wells. In limited cases, the Executive Secretary may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.

6.8 Time for Application for Permit. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit a complete application to the Executive Secretary in accordance with Section 7-9 a reasonable time before construction is expected to begin, except for new wells covered by an existing area permit.

6.9 All applications for a Utah UIC permit, including any required Technical Report that addresses the technical requirements of R317-7-10 or R317-7-11, any technical information necessary for the adequate evaluation of any permit application, or any permit renewal applications and Technical Reports that are significantly different from the original permit application, must be prepared by or under the direction, and bear the seal, of a professional geologist or professional engineer.

R317-7-7. Area Permits.

A. The Executive Secretary may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:

1. described and identified by location in permit application, if they are existing wells, except that the Executive Secretary may accept a single description of wells with substantially the same characteristics;
2. within the same well field, facility site, reservoir, project, or similar unit in the State;
3. operated by a single owner or operator; and
4. used to inject other than hazardous waste.

B. Area permits shall specify:

1. the area within which underground injections are authorized; and
2. the requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

C. The area permit may authorize the permittee to construct and operate, convert, or plug and abandon injection wells within the permit area provided that:

1. the permittee notifies the Executive Secretary at such time as the permit requires, when and where the new well has been or will be located;
2. the additional well meets the area permit criteria; and

3. the cumulative effects of drilling and operation of additional injection wells are considered by the Executive Secretary during evaluation of the area permit application and are acceptable to the Executive Secretary.

D. If the Executive Secretary determines that any additional well does not meet the area permit requirements, the Executive Secretary may modify or terminate the permit or take appropriate enforcement action.

E. If the Executive Secretary determines the cumulative effects are unacceptable, the permit may be modified.

F. The requirements of R317-7-6.9 apply to area permits.

R317-7-8. Emergency Permits.

A. Notwithstanding any provision in this Part 7, the Executive Secretary is authorized to issue emergency permits for specific underground injections provided the conditions and requirements of 40 C.F.R. 144.34 are met.

B. The requirements of R317-7-6.9 apply to emergency permits.

R317-7-9. Permitting Procedures and Conditions.

9.1 Application for a Permit

A. Any person who is required to have a permit shall complete, sign and submit an application to the Executive Secretary.

B. When the owner and operator are different, it is the operator's duty to obtain a permit.

C. The application must be complete before the permit is issued.

D. All applicants shall provide the following information:

1. activities conducted by the applicant which require a permit;
2. name, mailing address and location of facility;
3. up to four Standard Industrial Code (SIC) codes which best reflect the principal products or services provided;
4. operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;
5. whether the facility is located on Indian lands;
6. list of State and Federal environmental permits or construction approvals received or applied for and other relevant environmental permits;
7. topographic map (or other map if the topographic map is unavailable) extending one mile beyond the property boundary; depicting the facility and its intake and discharge structures, any hazardous waste, treatment, storage and disposal facilities; each injection well; and wells, springs, surface water bodies, and drinking water wells listed in public records or otherwise known;
8. a brief description of the nature of the business;
9. a map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show a number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines, (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
10. a tabulation of data on all wells within the area of review which penetrates into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, any available water quality data, and any additional information the Executive Secretary may require;
11. maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each

underground source of drinking water which may be affected by the proposed injection;

12. maps and cross sections detailing the geologic structure and lithology of the local area;

13. generalized maps and cross sections illustrating the regional geologic and hydrologic setting;

14. proposed operating data:

(a) average and maximum daily rate and volume of the fluid to be injected;

(b) average and maximum injection pressure; and

(c) source and an appropriate analysis of the chemical, physical, radiological and biological characteristics of injection fluids;

15. proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;

16. proposed stimulation program;

17. proposed injection procedure;

18. schematic or other appropriate drawings of the surface and subsurface construction details of the system;

19. contingency plans to cope with all shut-ins or well failures to prevent migration of fluids into any underground source of drinking water;

20. plans (including maps) for meeting the monitoring requirements;

21. for wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken;

22. construction procedures, as follows:

(a) For Class I Nonhazardous Wells: a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program, which comply with Section 7-10.1(A) or 40 C.F.R. 146.12;

(b) For Class I Hazardous Waste Wells: cementing and casing program, well materials specifications and their life expectancy, logging procedures, deviation checks, and a drilling, testing and coring program, which comply with 40 C.F.R. 146.65 and 146.66;

(c) For Class III wells: cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program, which comply with section 7-10.1(B) or 40 C.F.R. 146.32.

23. A plan for plugging and abandoning the well, as follows:

(a) Class I Nonhazardous Well plans shall include information required by 40 C.F.R. 146.14(c) and Section 7-10.5 of these rules;

(b) Class I Hazardous Waste Well plans shall include information required by 40 C.F.R. 146.71(a)(4) and 146.72(a);

(c) Class III well plans shall include information required by 40 C.F.R. 146.34(c) and Section 7-10.5 of these rules.

24. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well. Class I Hazardous Waste wells shall also demonstrate financial responsibility pursuant to 40 C.F.R. 144.60 through 144.70;

25. such other information as may be required by the Executive Secretary.

9.2 Applicants shall keep records of all data used to complete permit applications and supplemental information for at least three years from the date of permit approval.

9.3 Permit applications and reports required under these regulations shall be signed in accordance with 40 C.F.R. Section 144.32.

9.4 Permit Provisions, Conditions and Schedules of Compliance.

Any permit issued by the Executive Secretary is subject to the conditions and requirements and shall be issued in

accordance with the procedures outlined in 40 C.F.R. 144.51 (a)-(o) and (q), 144.52, 144.53, 144.54, 144.55 and 146.7, and 40 C.F.R. 124.3(a), 124.5(a),(c),(d) and (f), 124.6(a),(c),(d) and (e), 124.8, 124.10(a)(1)ii, and iii, (a)(1)(v), 124.10(b),(c),(d) and (e), 124.11, 124.12(a) and 124.17(a) and (c). The permit may specify schedules of compliance which require compliance not later than three years after the effective date of the permit.

9.5 Duration of Permits. Permits for Class I and Class V wells shall be effective for a fixed term not to exceed ten years. Permits for Class III wells shall be issued for a period up to the operating life of the facility. Each issued Class III well permit shall be reviewed by the Executive Secretary at least once every five years to determine whether it should be modified, revoked and reissued, or terminated. The Executive Secretary may issue any permit for a duration that is less than the full allowable term under this section.

9.6 Transfer, Modification, and Termination. Permits may be transferred, modified, revoked, reissued, or terminated by the Executive Secretary under the conditions and following the procedures outlined in 40 C.F.R. 144.36, 144.38, 144.39, 144.40, and 144.41.

9.7 Confidentiality of Information. The following information when submitted as required by these rules cannot be claimed confidential:

A. name and address of permit applicant or permittee; and

B. information which deals with the existence, absence or level of contaminants in drinking water.

9.8 Waivers of Requirements

A. The Executive Secretary may waive the requirements of these rules only under the conditions and circumstances outlined in 40 C.F.R. Section 144.16.

B. The "two mile" distance provisions in Sections 7-3.1(B), 7-3.4, 7-10.1(A)(1), and 7-11 of these rules may be reduced by the Board on a case-by-case basis to less than two miles but in no event to less than 1/4 mile upon a finding by the Board that the distance reduction will not pose a threat to any USDW. The burden shall be on the applicant to demonstrate that hydrogeologic conditions, ground water quality in the area, and other environmental studies and information support the finding.

R317-7-10. Technical Requirements for Class I Nonhazardous and Class III Wells.

10.1 Construction Requirements

A. Class I Nonhazardous Well Construction Requirements

1. All Class I Nonhazardous wells as defined in Section 7-3.1(B) shall be sited so they inject beneath the lowermost formation containing, within two miles of the well bore, an USDW.

2. All Class I Nonhazardous wells shall be cased and cemented to prevent the movement of fluids into or between USDW's. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements the following factors shall be considered:

a. depth to the injection zone;

b. injection pressure, external pressure, internal pressure, and axial loading;

c. hole size;

d. size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);

e. corrosiveness of injected fluid, formation fluids, and temperatures;

f. lithology of injection and confining intervals; and

g. type or grade of cement.

3. All Class I Nonhazardous injection wells (except for municipal wells injecting noncorrosive wastes) shall inject

through tubing with a packer set immediately above the injection zone or tubing with an approved fluid seal. Alternatives may be used with the written approval of the Executive Secretary if they provide a comparable level of protection.

The following factors shall be considered in determining and specifying requirements for tubing, packer or alternatives:

- a. depth of setting;
- b. characteristics of injected fluid;
- c. injection pressure;
- d. annular pressure;
- e. rate, temperature and volume of injected fluid; and
- f. size of casing.

4. Appropriate logs and other tests shall be conducted during the drilling and construction of new wells and a descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Executive Secretary. At a minimum, such logs and tests shall include:

a. deviation checks on holes constructed by drilling a pilot hole, and then enlarging the pilot hole;

b. Such other logs and tests as may be required by the Executive Secretary. In determining which logs and tests shall be required, the following shall be considered for use in the following situations:

(1) for surface casing intended to protect USDW's:

(a) electric and caliper logs (before casing is installed);

(b) cement bond, temperature or density log (after casing is set and cemented);

(2) for intermediate and long strings of casing intended to facilitate injection:

(a) electric, porosity and gamma ray logs (before casing is installed);

(b) fracture finder logs;

(c) cement bond, temperature or density log (after casing is set and cemented).

5. At a minimum, the following information concerning the injection formation shall be determined or calculated for new wells:

a. fluid pressure;

b. temperature;

c. fracture pressure;

d. physical and chemical characteristics of the injection matrix; and

e. physical and chemical characteristics of the formation fluids.

B. Class III Construction Requirements

1. All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Executive Secretary may waive the cementing requirement for new wells in existing projects or portions of existing projects where he has substantial evidence that no contamination of underground sources or drinking water would result. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

a. depth to the injection zone;

b. injection pressure, external pressure, internal pressure, and axial loading;

c. hole size;

d. size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);

e. corrosiveness of injected fluids and formation fluids;

f. lithology of injection and confining zones; and

g. type and grade of cement.

2. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A

descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Executive Secretary. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site, and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks shall be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they shall be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

3. Where the injection zone is a formation which is naturally water-bearing the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

a. fluid pressure;

b. fracture pressure; and

c. physical and chemical characteristics of the formation fluids.

4. Where the injection zone is not a water bearing formation, only the fracture pressure must be submitted.

5. Where injection is into a formation which contains water with less than 10,000 mg/l TDS, monitoring wells shall be completed into the injection zone and into any USDW above the injection zone.

6. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, no monitoring wells are necessary in the injection stratum.

7. Where the injection wells penetrate an USDW in a area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells shall be completed into the USDW.

10.2 Operation Requirements

A. For Class I Nonhazardous and Class III wells it is required that:

1. Except during stimulation, the injection pressure at the wellhead shall not exceed a maximum which shall be calculated to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall the injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an USDW.

2. Injection between the outermost casing protecting USDW's and the well bore is prohibited.

B. For Class I Nonhazardous wells, unless an alternative to tubing and packer has been approved, the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Executive Secretary and a pressure approved by the Secretary shall be maintained on the annulus.

10.3 Monitoring. The permittee shall identify types of tests and methods used to generate the monitoring data:

A. Class I Nonhazardous well monitoring shall, at a minimum, include:

1. the analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;

2. installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between tubing and the long string of casing;

3. a demonstration of mechanical integrity pursuant to 40 C.F.R. 146.8 at least once every five years during the life of the well; and

4. the type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the USDW, the parameters to be measured and the frequency of monitoring.

5. Ambient monitoring requirements for Class I

Nonhazardous wells found in 40 C.F.R. 146.13(d).

B. Class III monitoring shall, at a minimum, include:

1. the analyses of the physical and chemical characteristics of the injected fluid with sufficient frequency to yield representative data on its characteristics;

2. monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate;

3. demonstration of mechanical integrity pursuant to 40 C.F.R. 146.8 at least once every five years during the life of the well for salt solution mining;

4. monitoring of the fluid level in the injection zone semi-monthly, where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 7-10.2 of these rules, semi-monthly;

5. quarterly monitoring of wells required by Section 7-10.1(B)(7).

6. All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required, provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.

7. In determining the number, location, construction and frequency of monitoring of the monitoring wells, the criteria in 40 C.F.R. 146.32(h) shall be considered.

10.4 Reporting Requirements

A. For Class I Nonhazardous injection wells reporting shall, at a minimum, include:

1. quarterly reports to the Executive Secretary on:

a. the physical, chemical and other relevant characteristics of injection fluids;

b. monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and

c. the results of monitoring of wells in the area of review.

2. Reporting the results, with the first quarterly report after the completion of:

a. periodic tests of mechanical integrity;

b. any other test of the injection well conducted by the permittee if required by the Executive Secretary; and

c. any well work over.

B. For Class III injection wells reporting shall, at a minimum, include:

1. quarterly reporting to the Executive Secretary on required monitoring;

2. results of mechanical integrity and any other periodic test required by the Executive Secretary reported with the first regular quarterly report after the completion of the test; and

3. monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

10.5 Plugging and Abandonment Requirements

A. Prior to abandoning Class I Nonhazardous and Class III wells, the well shall be plugged with cement in a manner which will not allow the movement of fluid either into or between underground sources of drinking water. The Executive Secretary may allow Class III wells to use other plugging materials if he is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.

B. Placement of the cement plugs shall be accomplished by one of the following:

1. the Balance Method;

2. the Dump Bailer Method;

3. the Two-Plug Method; or

4. an alternative method approved by the Executive

Secretary which will reliably provide a comparable level of protection to USDW's.

C. The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once, or by a comparable method prescribed by the Executive Secretary, prior to the placement of the cement plug.

D. The plugging and abandonment plan required in Section 7-9 shall, in the case of a Class III well field which underlies or is in an aquifer which has been exempted, also demonstrate adequate protection of USDW's. The Executive Secretary shall prescribe aquifer cleanup and monitoring where he deems it necessary and feasible to insure adequate protection of USDW's.

10.6 Information to be Considered by the Executive Secretary. Requirements for information from well owners or operators and evaluations by the Executive Secretary for the issuance of permits, approval of well operation or well plugging and abandonment of Class I Nonhazardous injection wells are found in 40 C.F.R. 146.14 and Class III injection wells are found in 40 C.F.R. 146.34.

R317-7-11. Technical Requirements for Class I Hazardous Waste Injection Wells.

11.1 Applicability. Statements of applicability and definitions are described in 40 C.F.R. 146.61.

11.2 Minimum Siting Criteria. Minimum siting requirements for Class I hazardous waste wells are described in 40 C.F.R. 146.62.

11.3 Area of Review. The area of review is defined for Class I hazardous waste injection wells in 40 C.F.R. 146.63.

11.4 Corrective Action for Wells in the Area of Review. Corrective action requirements for wells found within the area of review are located in 40 C.F.R. 146.64.

11.5 Construction Requirements. Construction requirements for all Class I hazardous waste injection wells are found in 40 C.F.R. 146.65.

11.6 Logging, Sampling, and Testing Prior to New Well Operation. Pre-operation requirements for logging, sampling, and testing of new wells are found in 40 C.F.R. 146.66.

11.7 Operating Requirements. Operation requirements for Class I hazardous waste injection wells are found in 40 C.F.R. 146.67.

11.8 Testing and Monitoring Requirements. Testing and monitoring requirements are found in 40 C.F.R. 146.68.

11.9 Reporting Requirements. Reporting requirements are found in 40 C.F.R. 146.69.

11.10 Information to be Evaluated by the Executive Secretary. Requirements for information from well owners or operators and evaluations by the Executive Secretary for the issuance of permits, approval of well operation or well plugging and abandonment are found in 40 C.F.R. 146.70.

11.11 Closure. Well closure requirements are found in 40 C.F.R. 146.71.

11.12 Post-closure Care. Post-closure care requirements for Class I hazardous waste injection wells and facilities are found in 40 C.F.R. 146.72.

11.13 Financial Responsibility for Post-closure Care. Financial responsibility requirements for care of a Class I hazardous waste injection well during post-closure are found in 40 C.F.R. 146.73.

11.14 Requirements for Wells Injecting Hazardous Waste. Requirements for injection of waste accompanied by a manifest are found in 40 C.F.R. 144.14.

R317-7-12. Hazardous Waste Injection Restrictions.

12.1 Purpose, Scope, and Applicability. Standards are found in 40 C.F.R. 148.1.

12.2 Definitions. Definitions are found in 40 C.F.R.

148.2.

12.3 Dilution Prohibited as a Substitute for Treatment. The prohibition is found in 40 C.F.R. 148.3.

12.4 Procedures for Case-by-case Extensions to an Effective Date. Requirements are found in 40 C.F.R. 148.4.

12.5 Waste Analysis. Requirements are found in 40 C.F.R. 148.5.

12.6 Waste Specific Prohibitions - Solvent Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.10.

12.7 Waste Specific Prohibitions - Dioxin - Containing Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.11.

12.8 Waste Specific Prohibitions - California List Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.12.

12.9 Waste Specific Prohibitions - First Third Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.14.

12.10 Waste Specific Prohibitions - Second Third Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.15.

12.11 Waste Specific Prohibitions - Third Third Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.16.

12.12 Waste Specific Prohibitions - Newly Listed Wastes. Prohibitions and requirements are found in 40 C.F.R. 148.17.

12.13 Petitions to Allow Injection of a Waste Prohibited Under Sections 7.11 and 7.12. Requirements for petitions to allow injection of prohibited wastes are found in 40 C.F.R. 148.20.

12.14 Information to be Submitted in Support of Petitions. Requirements are found in 40 C.F.R. 148.21.

12.15 Requirements for Petition Submission, Review and Approval or Denial. Requirements are found in 40 C.F.R. 148.22.

12.16 Review of Exemptions Granted Pursuant to a Petition. Requirements are found in 40 C.F.R. 148.23.

12.17 Termination of Approved Petition. Petition termination requirements are found in 40 C.F.R. 148.24.

R317-7-13. Public Participation.

In addition to adjudicatory hearings required under the State Administrative Procedures Act 63-46b, et seq. and proceedings otherwise outlined or referenced in these regulations, the Board or its duly appointed representative will investigate and provide written response to all citizen complaints duly submitted. In addition, the Board shall not oppose intervention in any civil or administrative proceeding by any citizen where permissive intervention may be authorized by statute or rule. The Board will publish notice of and provide at least thirty (30) days of public comment on any proposed settlement of any enforcement action.

KEY: water quality, underground injection control

October 26, 2004

19-5

Notice of Continuation November 13, 2001

R414. Health, Health Care Financing, Coverage and Reimbursement.**R414-1B. Prohibition of Payment for Certain Abortion Services.****R414-1B-1. Introduction and Authority.**

This rule is to assure compliance with the prohibition on using public funds for certain abortion services as provided in Utah Code Section 76-7-331. It is authorized by Utah Code Sections 26-1-5 and 26-18-3.

R414-1B-2. Definitions.

(1) "Abortion billing code" means the following codes:

(a) 59840, 59841, 59850, 59851, 59852, 59855, 59856 and 59857 as shown in the Current Procedural Terminology (CPT) manual of the American Medical Association, 2003 edition; and

(b) 69.01, 69.51, 74.91 and 75.0 as shown in the International Classification of Diseases, 9th Edition, Volumes 1 and 2, Clinical Modification, Volume 3 Procedures.

(2) "Certification" or "Certify" means submitting to the Division of Health Care Financing, Utah Department of Health, a Department-approved document signed by one authorized to act on behalf of a Medicaid provider.

(3) "Public funds" means money of the state, its institutions or its political subdivisions used to pay or otherwise reimburse a person, agency, or facility. "Public funds" does not include (i) clinical revenue generated from nongovernmental payors; or (ii) gift or donor funds from third party nongovernmental sources.

R414-1B-3. Certification.

(1) Each Medicaid provider that bills the Utah Department of Health for services related to an abortion billing code at any time after May 3, 2004 must certify that public funds it receives from the Department are not used to pay or otherwise reimburse, either directly or indirectly, any person, agency, or facility for the performance of any induced abortion services unless:

(a) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to save the pregnant woman's life;

(b) the pregnancy is the result of rape or incest reported to law enforcement agencies, unless the woman was unable to report the crime for physical reasons or fear of retaliation; or

(c) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to prevent permanent, irreparable and grave damage to a major bodily function of the pregnant women provided that a caesarian procedure or other medical procedure that could also save the life of the child is not a viable option.

(2) The certification shall be ongoing and apply to all future claims unless the provider notifies the Department in writing of a change in its certification status.

(3) Nothing in this rule shall increase Medicaid coverage for abortion services beyond what is required under federal law.

R414-1B-4. Standards for Certification.

(1) Each provider who submits a certification is responsible to be informed of the abortion funding restrictions found in Utah Code section 76-7-326 and to assess whether it receives public funds for any abortion that is not excepted in subsections (a), (b), or (c) of Utah Code subsection 76-7-326(2).

(2) A provider is not using public funds to directly or indirectly fund prohibited abortion services if it certifies that:

(a) it uses non-public funds to make up any difference between the reimbursement it receives from all payors for services identified by abortion billing codes, other than those services identified in R414-1B-3(1), and the costs incurred by the provider for those procedures; or

(b) it has adopted another method, based on generally

accepted accounting principles, that provides a good faith basis for supporting the certification.

(3) Each provider that submits a certification meeting the requirements of this rule shall maintain records to support the certification and make those records available to the Department on request consistent with participation as a Medicaid provider.

**KEY: Medicaid, abortion, physicians, hospitals
October 6, 2004**

**26-1-5
26-18-3**

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-7D. Intermediate Care Facility for the Mentally Retarded Transition Project.****R414-7D-1. Transition Project Authorized.**

(1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations.

(2) A Medicaid recipient residing in an Intermediate Care Facility for the Mentally Retarded (ICF/MR) may at any time apply for enrollment to the Medicaid 1915c Home and Community-Based Waiver for Individuals with Developmental Disabilities or Mental Retardation (DD/MR Waiver) through the application process established in the federally approved waiver implementation plan. ICF/MR resident applications are processed consistent with all waiver applications.

(3) The Department, through an ICF/MR Transition Project, makes funds available to a limited number of ICF/MR residents to move from their current ICF/MR placement to community services through the Medicaid 1915c Home and Community-Based Waiver for Individuals with Developmental Disabilities or Mental Retardation. This funding is available to Medicaid recipients who have resided for 12 or more continuous months in a Medicaid certified ICF/MR. The Department makes the ICF/MR Transition Project available to eligible individuals during a specified time period up to the number of individuals authorized for the project by the Utah Legislature through appropriation for that time period.

R414-7D-2. ICF/MR Transition Project Open Enrollment.

(1) Based on a legislative appropriation enabling ICF/MR transition for a specified fiscal year, the Department determines the number of Medicaid recipients to be transitioned from ICFs/MR to the 1915c DD/MR Waiver during that fiscal year.

(a) The Department apportions the legislative appropriation so that approximately 50% of the available funds are targeted to applicants based on their continuous time as an ICF/MR resident and 50% of the available funds are targeted to applicants on a statistical process that ranks individuals based on random number tables.

(b) The Department ranks each individual who applies for participation in the ICF/MR transition project using length of continuous stay in an ICF/MR and a priority ranking assigned through a random numbering process.

(c) The Department allocates the legislative appropriation to individual applicants in accordance with R414-7D-2(1)(a) and in the order of priority ranking as determined in R414-7D-2(1)(b). The amount allocated to each individual is based on a State-conducted needs assessment and individualized service plan for DD/MR Waiver services at the point of initial enrollment. At the point the available funds have been fully allocated to the highest ranking individuals, the Department completes no further needs assessments and individualized service plans for the remaining applicants.

(2) The Department conducts an outreach campaign leading to an application period during which interested Medicaid recipients residing in Utah ICFs/MR may apply for transition to the DD/MR Waiver.

(a) The Department advertises the pending application period to all Medicaid recipients residing in Utah ICFs/MR for 30-days before taking applications.

(b) The application period will be open for 14 calendar days.

(c) The Department accepts applications in either electronic format or hard copy format. Electronic applications must be completed during the 14-day application period and hard copy applications must be postmarked during the 14-day application period.

(3) The Department of Human Services contacts applicants receiving a preliminary transition allocation through R414-7D-2(1)(c) to confirm their desire to participate.

(a) The Department retains the list of applicants remaining after available funds are fully allocated, if any, and their priority ranking for use in selecting alternate individuals in the event one or more of the initial selected persons withdraws prior to becoming enrolled in the DD/MR Waiver.

(b) In consultation with the Department of Human Services, the Department starts evaluations for enrollment as soon as possible after the close of the Legislative session. The Department coordinates the actual start date with the Department of Human Services enrollment workload resulting from new monies for increased DD/MR Waiver community enrollment to assure the individual transitions, once started, are completed in a timely manner.

(4) The Department submits a waiver amendment to the federal Centers for Medicare and Medicaid Services as necessary to increase the declared capacity of the DD/MR Waiver by the number of new enrollees.

(5) When the Department has allocated all appropriated funds to new enrollees in the DD/MR Waiver, the Department concludes the transition project for the fiscal year. There are no carryover of applications received during a specific fiscal year into future years for purposes of the ICF/MR transition project.

**KEY: Medicaid
January 3, 2005**

26-18

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-34. Substance Abuse Services.****R414-34-1. Introduction and Authority.**

(1) This rule outlines the program designed to evaluate and treat individuals with substance abuse disorders.

(2) This rule is authorized under UCA 26-18-3 and governs the services allowed under 42 CFR 440.130, Oct. 2003 ed.

R414-34-2. Definitions.

In this rule:

(a) "Diagnostic services" means any medical procedure recommended by a physician or other licensed mental health therapist to enable him to identify the existence, nature, or extent of substance abuse disorder in a client.

(b) "Rehabilitative services" means any medical or remedial services recommended by a physician or other licensed mental health therapist for maximum reduction of a client's substance abuse disorder and restoration of the client to his best possible functional level.

(c) "Substance abuse disorder" means diagnoses listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition-Text Revision (DSM-IV-TR), in the range of 291.00-291.99, 292.00-292.99, 303.00-303.99, 304.00-304.99 and 305.00-305.99.

R414-34-3. Client Eligibility Requirements.

Substance abuse treatment is available to any categorically or medically needy Medicaid client.

R414-34-4. Program Access Requirements.

(1) Diagnostic and rehabilitative substance abuse services must be provided by or through a substance abuse program that is under contract with or directly operated by a local county substance abuse authority.

(2) The substance abuse treatment program must evaluate the client to determine if:

(a) the client carries a primary diagnosis of a substance abuse disorder and requires substance abuse treatment services; or

(b) the client's child requires services to reduce the child's risk of developing a substance abuser disorder.

R414-34-5. Service Coverage.

(1) Services must be recommended by a licensed mental health therapist.

(2) The scope of diagnostic and rehabilitative substance abuse services includes the following:

- (a) psychiatric diagnostic interview examination;
- (b) alcohol and drug assessment by a non-physician;
- (c) psychological testing;
- (d) individual psychotherapy;
- (e) group psychotherapy;
- (f) individual psychotherapy with medical evaluation and management services;
- (g) family psychotherapy with client present;
- (h) family psychotherapy without client present;
- (i) therapeutic behavioral services;
- (j) pharmacologic management;
- (k) individual skills training and development;
- (l) psychosocial rehabilitative services; and
- (m) intensive psychosocial rehabilitative services for children through the month of their thirteenth birthday.

(3) Medicaid adult clients in the Non-Traditional Medicaid Plan have the following service exclusions:

- (a) hypnosis, occupational, and recreational therapy; and
- (b) office calls in conjunction with medication management for repetitive therapeutic injections; and

(4) Psychiatric diagnosis interview examinations for legal purposes only, such as for custodial or visitation rights are excluded from coverage for all Medicaid clients.

R414-34-6. Qualified Providers.

Diagnostic and rehabilitative services must be provided by an individual, as limited by the scope of his license, who is:

(1) a licensed physician, a licensed psychologist, a licensed clinical social worker, a licensed certified social worker, a licensed social service worker, a licensed advanced practice registered nurse specializing in mental health nursing, a licensed registered nurse, a licensed professional counselor, a licensed substance abuse counselor, or a licensed marriage and family counselor; or

(2) an individual working toward licensure in one of the professions identified in subsection (1) to the extent permitted by Utah Code Title 58; or

(3) a licensed practical nurse or other trained staff working under the supervision of one of the individuals identified in subsections (1) or (2).

R414-34-7. Reimbursement Methodology.

The Department pays the lower of the amount billed or the rate on the substance abuse treatment providers' fee schedule. The fee schedule was initially established after consultation with provider representatives. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

**KEY: Medicaid
February 1, 2005**

26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-36. Services by Community Mental Health Centers.****R414-36-1. Introduction and Authority.**

(1) This rule outlines the diagnostic and rehabilitative mental health services provided to Medicaid clients by community mental health centers.

(2) This rule is authorized under UCA 26-18-3 and governs the services allowed under 42 CFR 440.130, Oct. 2003 ed., and implements waivers authorized under federal waiver authority in subsections 1902(a)(1), 1915(b)(3) and 1915(b)(4) of the Social Security Act.

R414-36-2. Definitions.

In this rule:

"Diagnostic services" means any medical procedure recommended by a physician or other licensed mental health therapist to enable him to identify the existence, nature, or extent of a mental health disorder in a client.

"Prepaid Mental Health Plan" means the prepaid, capitated program through which the Department pays contracted community mental health centers to provide all needed inpatient and outpatient mental health services to residents of the community mental health center's catchment area who are enrolled in the plan.

"Rehabilitative services" means any medical or remedial services recommended by a physician or other licensed mental health therapist for maximum reduction of a client's mental health disorder and restoration of the client to his best possible functional level.

R414-36-3. Client Eligibility Requirements.

Diagnostic and rehabilitative mental health services are available to any Categorically or Medically Needy Medicaid client, except that

(1) Medicaid clients who reside at the Utah State Hospital and the Utah Developmental Center are not covered under the Prepaid Mental Health Plan;

(2) children in State custody are enrolled in the Prepaid Mental Health Plan only for inpatient mental health services;

(3) Medicaid clients who enroll in the UNI HOME Program are disenrolled from the Prepaid Mental Health Plan;

(4) state subsidized adoptive children who have been exempted from the Prepaid Mental Health Plan by parent request are enrolled in the Prepaid Mental Health Plan only for inpatient mental health services.

R414-36-4. Program Access Requirements.

(1) Diagnostic and rehabilitative mental health services must be provided by or through a community mental health center that is under contract with or directly operated by a local county mental health authority.

(2) The community mental health center must evaluate the client to determine if the client has a mental health disorder that requires mental health services.

R414-36-5. Service Coverage.

(1) Services must be recommended by a licensed mental health therapist.

(2) The scope of diagnostic and rehabilitative mental health services includes:

- (a) psychiatric diagnostic interview examination;
- (b) mental health assessment by non-physician;
- (c) psychological testing;
- (d) individual psychotherapy;
- (e) group psychotherapy;
- (f) individual psychotherapy with medical evaluation and management services;
- (g) family psychotherapy with patient present;

- (h) family psychotherapy without patient present;
- (i) therapeutic behavioral services;
- (j) pharmacologic management;
- (k) individual skills training and development;
- (l) psychosocial rehabilitative services; and
- (m) intensive psychosocial rehabilitative services for children ages 0 through the month of their 13th birthday.

(3) Medicaid clients who reside in counties covered by a Prepaid Mental Health Plan contractor are automatically enrolled in the Prepaid Mental Health Plan for that county. A Medicaid client covered by a Prepaid Mental Health Plan may receive additional services approved by CMS under the Social Security Act section 1915(b)(3) waiver authority.

(4) Medicaid adult recipients ages 19 and over in the TANF and Medically Needy eligibility categories who are enrolled in the Non-Traditional Medicaid Plan have the following service limitations:

(a) inpatient mental health care is limited to a maximum of 30 days per year;

(b) outpatient mental health services are limited to a maximum of 30 outpatient mental health treatment services or visits per year

(c) targeted case management services under R414-33A for the chronically mentally ill also count toward the maximum of 30 outpatient mental health services.

(4) Medicaid clients enrolled in the Non-Traditional Medicaid Plan also have the following service exclusions:

(a) services for conditions without manifest psychiatric diagnoses;

(b) hypnosis, occupational, or recreational therapy; and

(c) office calls in conjunction with medication management for repetitive therapeutic injections.

(4) Psychiatric diagnosis interview examinations for legal purposes only, such as for custodial or visitation rights are excluded from coverage for all Medicaid clients.

R414-36-6. Qualified Providers.

Diagnostic and rehabilitative services must be provided by an individual, as limited by the scope of his license, who is:

(1) a licensed physician, a licensed psychologist, a licensed clinical social worker, a licensed certified social worker, a licensed social service worker, a licensed advanced practice registered nurse specializing in mental health nursing, a licensed registered nurse, a licensed professional counselor, or a licensed marriage and family counselor; or

(2) an individual working toward licensure in one of the professions identified in subsection (a) to the extent permitted by Utah Code Title 58; or

(3) a licensed practical nurse or other trained staff working under the supervision of one of the individuals identified in subsections (1) or (2).

R414-36-7. Reimbursement Methodology.

(1) Two community mental health centers are not under contract with the Department as Prepaid Mental Health Plan contractors. The Department reimburses these two community mental health centers on a fee-for-service basis. The Department pays the lower of the amount billed or the Medicaid fee schedule. The fee schedule was initially established after consultation with provider representatives. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay clients.

(2) The Department pays Prepaid Mental Health Plan contractors a capitated monthly premium to cover all inpatient and outpatient mental health services needed by Medicaid clients. The premiums are developed and certified as actuarially sound by independent actuaries who meet the qualification standards established by the American Academy of Actuaries.

KEY: Medicaid
February 1, 2005

26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-61. Home and Community Based Waivers.****R414-61-1. Introduction and Authority.**

(1) This rule establishes authority for the Department of Health to administer all Section 1915(c) waivers.

(2) The rule is authorized by Section 26-18-3 and Section 1915(c) of the Social Security Act.

R414-61-2. Incorporation by Reference.

The Department adopts the document entitled "Utah State Plan under Title XIX of the Social Security Act" 1999 edition, and the document entitled "Home and Community Based Waiver Implementation Plan", 1999 edition, which are incorporated by reference within this rule. These documents are available for public inspection during normal working hours, at the State Health Department Building, located at 288 North, 1460 West, Salt Lake City, UT, 84114-3102, at the office of the Division of Health Care Financing. These documents will be used by the Division for the provision of services under the following waivers:

(1) Waiver for Technology Dependent/Medically Fragile Individuals, dated July 1, 2003;

(2) Waiver for Individuals Age 65 and Older, dated July 1, 2004;

(3) Waiver for Individuals with Acquired Brain Injuries, dated July 1, 2004;

(4) Waiver for Individuals with Physical Disabilities, dated July 1, 2003;

(5) Waiver for Individuals with Developmental Disabilities or Mental Retardation, dated July 1, 2003.

KEY: Medicaid
February 1, 2005

26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-63. Medicaid Policy for Pharmacy Reimbursement.****R414-63-1. Introduction and Authority.**

(1) The Medicaid Policy for reimbursement of dispensing fees for pharmacy providers was achieved through negotiations with representatives of the pharmacy industry.

(2) This rule is authorized under Chapter 26-18.

R414-63-2. Pharmacy Reimbursement.

(1) For each prescription filled for a Medicaid recipient the Department may reimburse the pharmacy provider for:

(a) the average wholesale price for the medication minus 15%; and

(b) a dispensing fee in the amount of \$3.90 for urban providers and \$4.40 for rural providers.

(2) Clients whose prescription exceeds seven prescriptions per month may be subject to clinical review by the Division.

(3) Prescribers may be subject to peer review in regard to a patient's prescription drug profile when opportunities exist to decrease duplicative prescribing, waste, perceived abuse of the pharmacy benefit, or the likelihood of a level one adverse drug event between one or more drugs for any given patient drug profile.

(4) The prescriber shall have ultimate say in what is prescribed.

**KEY: Medicaid, prescriptions
January 26, 2005**

26-18

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-90. Diabetes Self-Management Training.****R414-90-1. Introduction and Authority.**

Diabetes self-management training is an educational program that teaches individuals how to successfully manage and control diabetes. Diabetes self-management training is a component of the Utah Medicaid State Plan and is authorized by 42 CFR 440.130, October 2003 ed., and Utah Code Section 26-18-3.

R414-90-2. Client Eligibility Requirements.

Diabetes self-management training is available to Traditional Medicaid clients, Non-Traditional Medicaid clients, and Primary Care Network (PCN) clients who are diabetic and receive a physician referral for services.

R414-90-3. Program Access Requirements.

(1) Diabetes self-management training is limited to services approved by a physician, under a comprehensive plan that is essential to ensure successful diabetes self management by the individual patient.

(2) Qualified providers for the diabetes self-management training program include registered nurses, registered pharmacists and certified dietitians licensed by the state. These providers are required to be certified or recognized by the American Association of Diabetes Educators (AADE) or approved through the Utah Department of Health as diabetes instructors.

(3) Diabetes self-management training services provided by a home health agency, may only be provided by a licensed health care provider who is certified by an American Diabetes Association (ADA) program or approved through the Utah Department of Health.

(4) Home Health Agency participation in diabetes self-management training is limited to providing services to the patient who is receiving other skilled services in the home based on physician order and plan of care, when the home is the most appropriate site for the care provided.

R414-90-4. Service Coverage.

(1) Patient assessment for the diabetes self-management program includes a review of medical history, risk factors, health status, resource utilization, knowledge and skill level, and cultural barriers to effective diabetes self-management.

(2) Diabetes self-management training is limited to a maximum of 10 hours of outpatient services.

(3) Diabetes self-management training is limited to training presented by a certified program that meets all of the standards of the National Diabetes Advisory Board covering the 15 ADA core curriculum content areas. The program must also be recognized by the American Association of Diabetes Educators or be certified by the Utah Department of Health.

(4) Diabetes self-management training includes group sessions, but must allow for direct, face to face interaction between the educator and the patient.

(5) Diabetes self-management training must be sufficient in length to meet the goals of the basic comprehensive plan of care. Individual sessions must be sufficient in number and designed to meet the individual's cultural and learning needs.

(6) A maximum of 10 sessions per year may be approved by a physician and through prior authorization.

(7) Repeating any or all of a diabetes self-management program is limited to new conditions or a change in the health status of the client that warrants the need for new training.

(8) The following services are also covered:

- (a) annual eye examination that includes dilation;
- (b) annual physical;
- (c) glycosylated hemoglobin laboratory test with foot

examination;

(d) blood sugar review; and

(e) blood pressure reading every 3 to 4 months.

(9) Diabetes self-management training does not cover charges for facility use.

R414-90-5. Reimbursement.

Medicaid payments for approved diabetes self-management training are based on the established Medicaid fee schedule, unless a lower amount is billed. The fee schedule was established after internal and external consultation with diabetes experts. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

**KEY: Medicaid
January 19, 2005**

**26-1-5
26-18-3**

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-200. Non-Traditional Medicaid Health Plan Services.**

R414-200-1. Introduction and Authority.
This rule lists the services under the Non-Traditional Medicaid Health Plan (NTHP). This plan is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18, UCA.

R414-200-2. Definitions.

(1) "Emergency" means the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) placing the enrollee's health in serious jeopardy;
- (b) serious impairment to bodily functions;
- (c) serious dysfunction of any bodily organ or part; or
- (d) death.

(2) "Enrollee" means an eligible individual including Section 1931 Temporary Assistance for Needy Families Adults, the Section 1931 related medically needy and those eligible for Transitional Medicaid.

R414-200-3. Services Available.

(1) To meet the requirements of 42 CFR 431.107, the Department contracts with each provider who furnishes services under the NTHP.

(a) By signing a provider agreement with the Department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.

(b) By signing an application for Medicaid coverage, the applicant agrees that the Department's obligation to reimburse for services is governed by contract between the Department and the provider.

(2) Medical or hospital services for which providers are reimbursed under the Non-Traditional Medicaid Health Plan are limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).

(3) The following services, as more fully described and limited in provider contracts and provider manuals; are available to Non-Traditional Medicaid Health Plan enrollees:

(a) inpatient hospital services, provided by bed occupancy for 24 hours or more in an approved acute care general hospital under the care of a physician if the admission meets the established criteria for severity of illness and intensity of service;

(b) outpatient hospital services which are medically necessary diagnostic, therapeutic, preventive, or palliative care provided for less than 24 hours in outpatient departments located in or physically connected to an acute care general hospital;

(c) emergency services in dedicated hospital emergency departments;

(d) physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners, licensed certified nurse midwives, or physician assistants under appropriate supervision of the physician or osteopath.

(e) services associated with surgery or administration of anesthesia provided by physicians or licensed certified nurse anesthetists;

(f) vision care services by licensed ophthalmologists or licensed optometrists, within their scope of practice;

(g) laboratory and radiology services provided by licensed and certified providers;

(h) physical therapy services provided by a licensed physical therapist if authorized by a physician, limited to ten aggregated physical or occupational therapy visits per calendar year;

(i) dialysis to treat end-stage renal failure provided at a Medicare-certified dialysis facility;

(j) home health services defined as intermittent nursing care or skilled nursing care provided by a Medicare-certified home health agency;

(k) hospice services provided by a Medicare-certified hospice to terminally ill enrollees (six month or less life expectancy) who elect palliative versus aggressive care;

(l) abortion and sterilization services to the extent permitted by federal and state law and meeting the documentation requirement of 42 CFR 440, Subparts E and F;

(m) certain organ transplants;

(n) services provided in freestanding emergency centers, surgical centers and birthing centers;

(o) transportation services, limited to ambulance (ground and air) service for medical emergencies;

(p) preventive services, immunizations and health education activities and materials to promote wellness, prevent disease, and manage illness;

(q) family planning services provided by or authorized by a physician, certified nurse midwife, or nurse practitioner to the extent permitted by federal and state law;

(r) pharmacy services provided by a licensed pharmacy;

(s) inpatient mental health services, limited to 30 days per enrollee per calendar year;

(t) outpatient mental health services, limited to 30 visits per enrollee per calendar year;

(u) outpatient substance abuse services;

(v) dental emergency services only for relief of pain and infection, limited to an emergency examination, emergency x-ray and emergency extraction;

(w) interpretive services if they are provided by entities under contract with the Department of Health to provide medical translation services for people with limited English proficiency and interpretive services for the deaf;

(x) occupational therapy, limited to that provided for fine motor development and limited to ten aggregated physical or occupational therapy visits per calendar year; and

(y) chiropractic services, limited to six visits per calendar year.

(4) Emergency services are:

(a) limited to attention provided within 24 hours of the onset of symptoms or within 24 hours of diagnosis;

(b) for a condition that requires acute care and is not chronic;

(c) reimbursed only until the condition is stabilized sufficient that the patient can leave the hospital emergency department; and

(d) not related to an organ transplant procedure.

(5) The vision care benefit is limited to \$30 per year.

R414-200-4. Cost Sharing.

(1) An enrollee is responsible to pay to the:

(a) hospital a \$220 co-insurance payment for each inpatient hospital admission;

(b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;

(c) provider a \$3 copayment for outpatient office visits for physician, physician-related, mental health, and physical therapy services; except, no copayment is due for preventive services, immunizations and health education; and

(d) pharmacy a \$2 copayment per prescription for prescription drugs.

(2) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$500 per enrollee per calendar year.

**KEY: Medicaid, non-traditional, cost sharing
February 1, 2005**

26-18

R426. Health, Health Systems Improvement, Emergency Medical Services.**R426-12. Emergency Medical Services Training and Certification Standards.****R426-12-100. Authority and Purpose.**

This rule is established under Title 26, Chapter 8a to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and recertification of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.

R426-12-101. Written and Practical Test Requirements.

- (1) The Department shall:
 - (a) develop written and practical tests for each certification; and
 - (b) establish the passing score for certification and recertification written and practical tests.
- (2) The Department may administer the tests or delegate the administration of any test to another entity.
- (3) The Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:
 - (a) whether the individual passed or failed a written or practical test; and
 - (b) the subject areas where items were missed on a written or practical test.

R426-12-102. Emergency Medical Care During Clinical Training.

A student enrolled in a Department approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require certification to perform.

R426-12-103. Certification at a Lower Level.

- (1) An individual who has taken an Emergency Medical Technician-Intermediate Advanced (EMT-IA) course, but has not been recommended for certification, may request to become certified at the Emergency Medical Technician-Intermediate (EMT-I) level if:
 - (a) the EMT-IA course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the EMT-I level as required by R426-12-300(2); and
 - (b) the individual successfully completes all requirements of R426-12-301, except for R426-12-301(2)(a).
- (2) An individual who has taken a Paramedic course, but has not been recommended for certification, may request to become certified at the EMT-IA or EMT-I levels if:
 - (a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the EMT-I level as required by R426-12-300(2) or the EMT-IA level as required by R426-12-400(2), as appropriate; and
 - (b) the individual successfully completes all requirements of:
 - (i) R426-12-301, except for R426-12-301(2)(a) for EMT-I; or
 - (ii) R426-12-401, except for R426-12-401(2)(a) for EMT-IA respectively.
- (3) If an individual fails either the written or practical examinations and re-examinations for:
 - (a) certification at the EMT-IA level, the individual may request to be certified at the EMT-I level if all requirements of R426-12-103(1) are met; and
 - (b) certification at the Paramedic level, the individual may

request to be certified at the EMT-IA or EMT-I level if all requirements of R426-12-103(2) are met.

(4) An individual certified at the EMT-IA level may request in writing to the Department to recertify at the EMT-I or EMT-B level at the time of the individual's EMT-IA recertification. The individual must complete all requirements for recertification of EMT-I as required by R426-12-303 or EMT-B as required by R426-12-202.

(5) An individual certified at the Paramedic level may request in writing to the Department to recertify at the EMT-IA, EMT-I, or Emergency Medical Technician-Basic (EMT-B) level at the time of the individual's recertification. The individual must complete all requirements of R426-12-403, R426-12-303, or R426-12-202 as appropriate.

R426-12-200. Emergency Medical Technician-Basic (EMT-B) in Requirements and Scope of Practice.

- (1) The Department may certify as an EMT-B an individual who meets the initial certification requirements in R426-12-201.
- (2) The Committee adopts the 1994 United States Department of Transportation's "EMT-Basic Training Program: National Standard Curriculum" (EMT-B Curriculum), which is incorporated by reference, with the exceptions of Module 8: Advanced Airway and Appendices C, D, J, and K.
- (3) An EMT-B may perform the skills as described in the EMT-B Curriculum, as adopted in this section.

R426-12-201. EMT-B Initial Certification.

- (1) The Department may certify an EMT-B for a four year period.
- (2) An individual who wishes to become certified as an EMT-B must:
 - (a) successfully complete a Department-approved EMT-B course as described in R426-12-200(2);
 - (b) be able to perform the functions listed in the objectives of the EMT-B Curriculum adopted in R426-12-200(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives listed in the adopted EMT-B Curriculum;
 - (c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B certification;
 - (d) be 18 years of age or older;
 - (e) submit the applicable fees and a completed application, including social security number and signature, to the Department;
 - (f) submit to and pass a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student, serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to an FBI background investigation;
 - (g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;
 - (h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B course;
 - (i) within 90 days after completing the EMT-B course, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary.
- (3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the

inability to meet the requirements within the 90 days was due to circumstances beyond the applicant's control.

R426-12-202. EMT-B Certification Challenges.

(1) The Department may certify as an EMT-B, a registered nurse licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the EMT-B Curriculum as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills and objectives listed in the EMT-B Curriculum;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT-B;

(c) maintains and submits documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(d) is 18 years of age or older.

(2) To become certified, the applicant must:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the EMT-B Curriculum.

(c) submit an application, including social security number, signature, and documentation of compliance with this section, and all required fees;

(d) within 90 days after submitting the challenge application, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(e) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation; and

(f) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-12-203. EMT-B Reciprocity.

(1) The Department may certify an individual as an EMT-B an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to an FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by

the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-204. EMT-B Recertification Requirements.

(1) The Department may recertify an EMT-B for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all EMT-B recertification requirements;

(b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(d) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(e) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination; and

(f) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed; and

(g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), and (7).

(3) The EMT-B must complete the CME throughout each of the prior four years.

(4) The EMT-B must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Well being of the EMT - 2 hours;

(b) Infection Control - 2 hours;

(c) Airway - 4 hours;

(d) Patient Assessment - 10 hours;

(e) Communications and Documentation - 4 hours;

(f) Pharmacology and Patient Assisted Medications - 8 hours;

(g) Medical Emergencies: Cardiac and Automatic External Defibrillation - 6 hours;

(h) Medical Emergencies - 7 hours;

(i) Trauma (must include simulated bleeding, shock, soft tissue, burns, kinetics, musculoskeletal, head and spine, eyes, face, chest, splinting and bandaging - 12 hours;

(j) Pediatric Patients - 8 hours;

(k) Obstetrics and Gynecology - 4 hours;

(l) Operations (must include lifting and moving, ambulance operations, extrication, triage - 4 hours; and

(m) HAZMAT awareness - 4 hours.

(5) An EMT-B may complete CME hours through the

methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS).

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-B is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-B practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-B must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-B may be creditable, but only with the approval of the Department. If in doubt, the EMT-B should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-B scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(6) The EMT-B must complete the following skills at least two times as part of the CME training listed in subsections (4) and (5):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(7) An EMT-B who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-B's completion of the recertification requirements. An EMT-B who is not affiliated with an agency must submit verification of all recertification

requirements directly to the Department.

(8) Each EMT-B is individually responsible to complete and submit the required recertification material to the Department. Each EMT-B should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-B's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-B; however, the EMT-B remains responsible for a timely and complete submission.

(9) The Department may shorten recertification periods. An EMT-B whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-205. EMT-B Lapsed Certification.

(1) An individual whose EMT-B certification has expired for less than one year may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become certified.

(2) An individual whose certification has expired for more than one year must take an EMT-B course and reapply as if there were no prior certification.

R426-12-206. EMT-B Testing Failures.

(1) An individual who fails any part of the EMT-B certification written or practical examination may retake the EMT-B examination once without further course work.

(a) If the individual fails on the re-examination, he must take a complete EMT-B training course to be eligible for further examination.

(b) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) If an EMT-B fails the written or practical recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of

(a) the training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information.

(5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMT-B may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-300. Emergency Medical Technician-Intermediate (EMT-I) Requirements and Scope of Practice.

(1) The Department may certify an EMT-B as an EMT-I who:

(a) meets the initial certification requirements in R426-12-

301; and

(b) has 12 months of field experience as a certified EMT-B, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-Is to serve the area.

(2) The Committee adopts as the standard for EMT-I training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum): 1-1, 1-3, 1-4, 2-1, 3-2, 3-3, 3-5, 4-2, 5-1, 5-2, 5-3, 5-4, 5-5, 6-3, which is incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.54, 1-3.14-15, 1-3.17, 1-4.18, 1-4.24-25, 1-4.38, 2-1.7-8, 2-1.21, 2-1.33, 2-1.82-83, 2-1.92, 2-1.94, 2-1.96, 4-2.14-16, 5-1.3-5, 5-2.6-11, 5-2.13-14, 5-2.16-18, 5-2.20, 5-2.22-33, 5-2.39, 5-2.41, 5-2.44-46, 5-3.5-16, 5-4.3-5, 5-4.8-11, 5-5.3, 5-5.8-9, and 5-5.13.

(3) In addition to the skills that an EMT-B may perform, an EMT-I may perform the adopted skills described in section R426-12-300(2).

R426-12-301. EMT-I Initial Certification.

(1) The Department may certify an EMT-I for a four year period.

(2) An individual who wishes to become certified as an EMT-I must:

(a) successfully complete a Department-approved EMT-I course as described in R426-12-300(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-300(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives.

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-I certification;

(d) be currently certified as an EMT-B;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-I course; and

(i) within 90 days after completing the EMT-I course, successfully complete the Department EMT-I examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond the applicant's control.

R426-12-302. EMT-I Reciprocity.

(1) The Department may certify as an EMT-I an individual

certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater to than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs;

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-303. EMT-I Recertification Requirements.

(1) The Department may recertify an individual as an EMT-I for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all EMT-I recertification requirements;

(b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(d) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(e) submit a statement from the EMS provider organization or a physician, confirming the applicant's results of a TB examination

(f) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed;

(g) submit a letter from a certified the off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:

(i) initiating and terminating intravenous infusion;

(ii) completion of pediatric vascular access skills station;

(iii) insertion and removal of intraosseous needle;

(iv) insertion and removal of endotracheal tube;
 (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
 (vi) EKG rhythm recognition; and
 (h) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (6), (7) and (8).

(3) The EMT-I must complete the CME throughout each of the prior four years.

(4) The EMT-I must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Foundations of EMT-Intermediate - 4 hours;
 (b) Pharmacology - 5;
 (c) Venous Access and Medication Administration - 5 hours;

(d) Airway - 8 hours;
 (e) Techniques of Physical Examination - 4 hours;
 (f) Patient Assessment - 2 hours;
 (g) Clinical Decision Making - 4 hours
 (h) Trauma Systems and Mechanism of Injury - 3 hours;
 (i) Hemorrhage and Shock - 4 hours;
 (j) Burns - 3 hours;
 (k) Thoracic Trauma - 3 hours;
 (l) Respiratory - 2 hours;
 (m) Cardiac - 6 hours;
 (n) Diabetic - 2 hours;
 (o) Allergic Reactions - 2 hours;
 (p) Poisoning - 2 hours;
 (q) Environmental Emergencies - 2 hours;
 (r) Gynecology - 2 hours;
 (s) Obstetrics - 2 hours;
 (t) Neonatal resuscitation - 4 hours; and
 (u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

(a) Anatomy and Physiology;
 (b) Assessment Based Management;
 (c) Behavioral Emergencies;
 (d) Communication;
 (e) Documentation;
 (f) Geriatrics;
 (g) HAZMAT;
 (h) History Taking;
 (i) Mass Casualty Incident;
 (j) Medical Incident Command;
 (k) Neurological Emergencies;
 (l) Non-Traumatic Abdominal Emergencies; and
 (m) Trauma Practical Lab.

(6) An EMT-I may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.
 (c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-I is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-I practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-I must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-I may be creditable, but only with the approval of the Department. If in doubt, the EMT-I should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-I scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-I must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(8) An EMT-I who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-I's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each EMT-I is individually responsible to complete and submit the required recertification material to the Department. Each EMT-I should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-I's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-I; however, the EMT-I remains responsible for a timely and complete submission.

(10) The Department may shorten recertification periods. An EMT-I whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-304. EMT-I Lapsed Certification.

(1) An individual whose EMT-I certification has expired for less than one year, may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become certified.

(2) An individual whose certification has expired for more than one year must take the EMT-B and EMT-I courses and reapply as if there were no prior certification.

R426-12-305. EMT-I Testing Failures.

(1) An individual who fails any part of the EMT-I certification written or practical examination may retake the EMT-I examination once without further course work.

(a) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) If an EMT-I fails the written or practical recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) the training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information.

(5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMT-I may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-400. Emergency Medical Technician-Intermediate Advanced (EMT-IA) Requirements and Scope of Practice.

(1) The Department may certify an EMT-B or an EMT-I as an EMT-IA who:

(a) meets the initial certification requirements in R426-12-401; and

(b) has 12 months of field experience as a certified EMT-B or EMT-I, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-IAs to serve the area.

(2) The Committee adopts as the standard for EMT-IA training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum) which is incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.54, 2-1.8, 2-1.31(f), 2-1.33, 2-1.75(c), (e), and (f), 6-3.1, 6-3.102-106.

(3) In addition to the skills that an EMT-B and an EMT-I may perform, an EMT-IA may perform the adopted skills described in section R426-12-400(2).

R426-12-401. EMT-IA Initial Certification.

(1) The Department may certify an EMT-IA for a four-year period.

(2) An individual who wishes to become certified as an EMT-IA must:

(a) successfully complete a Department-approved EMT-IA

course as described in R426-12-400(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-400(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-IA certification;

(d) be currently certified as an EMT-B or EMT-I;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(g) submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year; and

(i) within 90 days after completing the EMT-IA course, successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond the applicant's control.

R426-12-402. EMT-IA Reciprocity.

(1) The Department may certify as an EMT-IA an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-403. EMT-IA Recertification Requirements.

(1) The Department may recertify an EMT-IA for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all EMT-IA recertification requirements;
 (b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(d) submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(e) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(f) successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary within one year prior to expiration;

(g) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-IA skills:

- (i) initiating and terminating intravenous infusion;
 - (ii) completion of pediatric vascular access skills station;
 - (iii) insertion and removal of intraosseous needle;
 - (iv) insertion and removal of endotracheal tube;
 - (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
 - (vi) EKG rhythm recognition; and
- (h) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (6), (7) and (8).

(3) The EMT-IA must have completed the CME throughout each of the prior four years.

(4) The EMT-IA must have taken at least 25 elective hours and the following 75 required CME hours by subject:

- (a) Foundations of EMT-Intermediate - 4 hours;
- (b) Pharmacology - 5;
- (c) Venous Access and Medication Administration - 5 hours;
- (d) Airway - 8 hours;
- (e) Techniques of Physical Examination - 4 hours;
- (f) Patient Assessment - 2 hours;
- (g) Clinical Decision Making - 4 hours
- (h) Trauma Systems and Mechanism of Injury - 3 hours;
- (i) Hemorrhage and Shock - 4 hours;
- (j) Burns - 3 hours;
- (k) Thoracic Trauma - 3 hours;
- (l) Respiratory - 2 hours;
- (m) Cardiac - 6 hours;
- (n) Diabetic - 2 hours;
- (o) Allergic Reactions - 2 hours;
- (p) Poisoning - 2 hours;
- (q) Environmental Emergencies - 2 hours;
- (r) Gynecology - 2 hours;
- (s) Obstetrics - 2 hours;
- (t) Neonatal resuscitation - 4 hours; and
- (u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

- (a) Anatomy and Physiology;
- (b) Assessment Based Management;
- (c) Behavioral Emergencies;
- (d) Communication;
- (e) Documentation;
- (f) Geriatrics;
- (g) HAZMAT;
- (h) History Taking;
- (i) Mass Casualty Incident;
- (j) Medical Incident Command;
- (k) Neurological Emergencies;
- (l) Non-Traumatic Abdominal Emergencies; and
- (m) Trauma Practical Lab.

(6) An EMT-IA may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT-IA. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT-IA and approved for CME credit by the Department or the CECBEMS.

- (b) Local medical training meetings.
- (c) Demonstration or practice sessions.
- (d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-IA is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-IA practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-IA must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-IA may be creditable, but only with the approval of the Department. If in doubt, the EMT-IA should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-IA scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-IA must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

- (a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;
- (b) splinting using hare traction or sager splint (choice based upon availability of equipment);
- (c) splinting of at least one upper and lower extremity;
- (d) cervical and spinal immobilization using c-collar, long

board, head stabilization equipment (utilize available equipment) and straps;

(e) patient-assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) initiating and terminating intravenous infusion;

(i) completion of pediatric vascular access skills station;

(j) insertion and removal of intraosseous needle;

(k) insertion and removal of endotracheal tube;

(l) administration of medications via intramuscular, subcutaneous, and intravenous routes;

(m) transcutaneous pacing;

(n) synchronized cardioversion;

(o) insertion and removal of a nasal gastric tube;

(p) external jugular vein cannulation;

(q) needle decompression of a chest;

(r) administration of the following medications: adenosine, activated charcoal, aspirin, atropine, albuterol, D50, diazepam, epinephrine 1:1000, epinephrine 1:10,000, furosemide, lidocaine, morphine, naloxone, and nitroglycerin; and;

(s) EKG rhythm recognition of the following rhythms: ventricular fibrillation, ventricular tachycardia, atrial flutter, atrial fibrillation, sinus tachycardia, paroxysmal supraventricular tachycardia, pulseless electrical activity, asystole, premature ventricular contraction, atrioventricular blocks: 1st degree, 2nd degree types I and II, and 3rd degree.

(8) An EMT-IA who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-IA's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each EMT-IA is individually responsible to complete and submit the required recertification material to the Department. Each EMT-IA should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-IA's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-IA; however, the EMT-IA remains responsible for a timely and complete submission.

(10) The Department may shorten recertification periods. An EMT-IA whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-404. EMT-IA Lapsed Certification.

(1) An individual whose EMT-IA certification has lapsed for less than one year, and who wishes to become recertified as an EMT-IA must complete all recertification requirements and pay a recertification late fee.

(2) An individual whose EMT-IA certification has expired for more than one year, and who wishes to become recertified as an EMT-IA must:

(a) submit a completed application, including social security number and signature to the Department;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace

Corps volunteer, or the like need not submit to the FBI background investigation;

(c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

(e) submit verification of current completion of a Department-approved course in adult and pediatric advanced life support;

(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in paramedic skills;

(g) successfully complete the applicable Department written and practical examinations; and

(h) pay all applicable fees.

R426-12-405. EMT-IA Testing Failures.

(1) If an individual fails the written or practical certification or recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.

(2) Within thirty days of receipt of the request, the Department shall convene a review panel consisting of:

(a) the chairman of the Paramedic Advisory Subcommittee;

(b) the off-line medical director for the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and

(c) one or more representatives from the Department; and

(3) The review panel shall allow the individual to appear and provide information.

(4) The panel shall review whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(5) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(6) If the Department does not allow the third examination, the EMT-IA may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-500. Paramedic Requirements and Scope of Practice.

(1) The Department may certify an EMT-B, an EMT-I or an EMT-IA as a paramedic who:

(a) meets the initial certification requirements in R426-12-501; and

(b) has 12 months of field experience as a certified EMT-B, EMT-I or EMT-IA, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of paramedics to serve the area, and

(2) The Committee adopts as the standard for paramedic training and competency in the state the following affective, cognitive and psychomotor objectives for patient care and treatment the 1998 United States Department of Transportation's "EMT-Paramedic Training Program: National Standard Curriculum" (Paramedic Curriculum) which is incorporated by reference.

(3) In addition to the skills that an EMT-B, an EMT-I and an EMT-IA may perform, a Paramedic may perform the adopted skills described in section R426-12-500(2).

R426-12-501. Paramedic Initial Certification.

(1) The Department may certify a paramedic for a four year period.

(2) An individual who wishes to become certified must:

(a) successfully complete a Department-approved Paramedic course as described in R426-12-500(2);

(b) be able to perform the functions listed in the objectives of the Paramedic Curriculum adopted in R426-12-500(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for paramedic certification;

(d) be currently certified as an EMT-B, EMT-I, or EMT-IA;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(g) submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the paramedic course; and

(i) within 90 days after completing the paramedic course, successfully complete the Department written and practical paramedic examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond the applicant's control.

R426-12-502. Paramedic Reciprocity.

(1) The Department may certify as a Paramedic an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the

prior year;

(e) successfully complete the Department written and practical EMT-I examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-503. Paramedic Recertification Requirements.

(1) The Department may recertify a paramedic for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all paramedic recertification requirements;

(b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(d) maintain and submit verification of current Department-approved course completion in Adult and Pediatric Advanced Cardiac Life Support;

(e) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(f) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed;

(g) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency; and

(h) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (4), (5), (7), and (8).

(3) The Paramedic must complete the CME throughout each of the prior four years.

(4) The Paramedic must take at least 20 elective hours and the following 80 required CME hours by subject:

(a) EMS system roles and responsibilities - 2 hours;

(b) Well being of the paramedic - 2 hours;

(c) Pathophysiology - 1 hour;

(d) Medical legal - 1 hour;

(e) Pharmacology - 1 hour;

(f) Venous access and medication administration - 1 hour;

(g) Airway management and ventilation - 5 hours;

(h) Patient assessment - 3 hours;

(i) Communication - 1 hour;

(j) Documentation - 1 hour;

(k) Trauma Systems and Mechanism of injury - 1 hour;

(l) Hemorrhage and shock - 2 hours;

(m) Burns - 3 hours;

(n) Head and facial - 3 hours;

(o) Spinal trauma - 1 hour;

(p) Thoracic trauma - 2 hours;

(q) Abdominal trauma - 2 hours;

(r) Pulmonary - 1 hour;

(s) Cardiology - 9 hours;

(t) Neurology - 4 hours;

(u) Endocrinology - 3 hours;

(v) Allergies and anaphylaxis - 1 hour;

(w) Gastroenterology - 4 hours;

- (x) Toxicology - 2 hours;
 - (y) Environmental emergencies - 4 hours;
 - (z) Infectious and communicable diseases - 3 hours;
 - (aa) Behavioral/psychiatric disorders - 1 hour;
 - (bb) Obstetrics and gynecology - 2 hours;
 - (cc) Neonatology - 3 hours;
 - (dd) Pediatrics - 5 hours;
 - (ee) Geriatrics - 2 hours;
 - (ff) Assessment based management - 1 hour;
 - (gg) Medical incident command - 2 hours; and
 - (hh) Hazardous materials incidents - 1 hour;
- (5) The Department strongly suggests that the 25 elective hours be in the following topics:
- (a) Ethics, illness and injury prevention;
 - (b) Therapeutic communications;
 - (c) Life span development;
 - (d) Clinical decision making;
 - (e) Soft tissue trauma;
 - (f) Renal/urology;
 - (g) Hematology;
 - (h) Abuse and assault;
 - (i) Patients with special challenges;
 - (j) Acute intervention for chronic care patients;
 - (k) Ambulance operations;
 - (l) Rescue awareness and operations; and
 - (m) Crime scene awareness.
- (6) A Paramedic may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of a paramedic. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.
- (a) Workshops and seminars related to the required skills and knowledge of a paramedic and approved for CME credit by the Department or the CECBEMS.
 - (b) Local medical training meetings.
 - (c) Demonstration or practice sessions.
 - (d) Medical training meetings where a guest speaker presents material related to emergency medical care.
 - (e) Actual hours the Paramedic is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.
 - (f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the Paramedic practice. Up to 15 hours are creditable during a certification period for teaching classes.
 - (g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The Paramedic must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.
 - (h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of a paramedic may be creditable, but only with the approval of the Department. If in doubt, the Paramedic should contact the Department. Up to 10 hours are creditable during a certification period for college courses.
 - (i) Up to 16 hours of CPR training are creditable during a certification period.
 - (j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.
 - (k) Completing tests related to the Paramedic scope of

practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(7) A Paramedic who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the Paramedic's completion of the recertification requirements. A Paramedic who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each Paramedic is individually responsible to complete and submit the required recertification material to the Department. Each Paramedic should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the Paramedic's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of a Paramedic; however, the Paramedic remains responsible for a timely and complete submission.

(9) The Department may shorten recertification periods. A paramedic whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-504. Paramedic Lapsed Certification.

(1) An individual whose paramedic certification has lapsed for less than one year, and who wishes to become recertified as a paramedic must complete all recertification requirements and pay a recertification late fee.

(2) An individual whose paramedic certification has expired for more than one year, and who wishes to become recertified as a paramedic must:

- (a) submit a completed application, including social security number and signature to the Department;
- (b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;
- (c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years.
- (d) submit a statement from a physician, confirming the applicant's results of a TB examination;
- (e) submit verification of current completion of a Department-approved course in adult and pediatric advanced life support;
- (f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in paramedic skills;
- (g) successfully complete the applicable Department written and practical examinations; and
- (h) pay all applicable fees.

R426-12-505. Paramedic Testing Failures.

(1) If an individual fails the written or practical certification or recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.

(2) Within thirty days of receipt of the request, the Department shall convene a review panel consisting of:

- (a) the chairman of the Paramedic Advisory Sub-

Committee;

(b) the off-line medical director for the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan;

(c) one or more representatives from the Department; and

(d) a representative from the entity that provided training, but if the training was not provided in-state, then a representative of an in-state paramedic training program.

(3) The review panel shall allow the individual to appear and provide information.

(4) The panel shall review whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(5) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

R426-12-600. Emergency Medical Dispatcher (EMD) Requirements and Scope of Practice.

(1) The Department may certify as an EMD an individual who meets the initial certification requirements in R426-12-601.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMD Training Program: National Standard Curriculum" (EMD Curriculum) as the standard for EMD training and competency in the state, which is incorporated by reference.

R426-12-601. EMD Initial Certification.

(1) The Department may certify an EMD for a four year period.

(2) An individual who wishes to become certified as an EMD must:

(a) successfully complete a Department-approved EMD course as described in R426-12-600(2);

(b) be able to perform the functions listed in the objectives of the EMD Curriculum adopted in R426-12-600(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence and successful completion of all training requirements for EMD certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation and;

(g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(h) within 90 days after completing the EMD course, successfully complete the Department written and practical EMD examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond the applicant's control.

R426-12-602. EMD Reciprocity.

(1) The Department may certify as an EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the Department written EMD examination, or reexamination, if necessary;

(e) submit a current certification from one of the states of the United States or its possessions or the National Academy of EMDs; and

(f) provide documentation of completion of 12 hours of continuing medical education within the prior year.

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD).

(4) An individual seeking reciprocity for certification in Utah based on NAEMD certification must

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years:

(i) a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(ii) a course in CISM;

(d) as part of meeting the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(e) submit documentation of current NAEMD certification; and

(f) if the individual's NAEMD certification is based on a course offered in Utah; and successfully pass a class that follows the CISM section of the Department-established EMD curriculum;

R426-12-603. EMD Recertification.

(1) The Department may recertify an EMD for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all EMD recertification requirements;

(b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(d) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(e) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed.

(f) provide documentation of completion of 48 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5).

(3) The EMD must complete the CME throughout each of the prior four years.

(4) The EMD must take at least 8 elective hours and the following 40 required CME hours by subject:

- (a) Roles and Responsibilities - 5 hours;
- (b) Obtaining Information from callers - 7 hours;
- (c) Resource allocation - 4 hours;
- (d) Providing emergency care instruction - 2 hours;
- (e) Legal and Liability Issues - 5 hours;
- (f) Critical Incident Stress Management - 5 hours;
- (g) Basic Emergency Medical Concepts - 5 hours; and
- (h) Chief complaint types - 7 hours.

(5) An EMD may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMD. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMD and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMD is involved in community emergency exercise and disaster drills. Up to 8 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMD practice.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMD must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses relating to the scope and practice of an EMD may be creditable, but only with the approval of the Department. Up to 8 hours are creditable during a certification period for college courses.

(i) Telephone scenarios of practical training and role playing.

(j) Riding with paramedic or ambulance units to understand the EMS system as a whole. Up to 6 hours are creditable during a certification period for ride-alongs.

(k) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 12 hours are creditable during a certification period using computer and internet-based training.

(6) Notwithstanding the provisions of subsections (2), (3), (4), and (5), an EMD who has been certified or recertified by the National Academy of Emergency Medical Dispatch (NAEMD) may be recertified by the Department upon the following conditions:

(a) the EMD must, as part of meeting the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(b) an individual who takes a NAEMD course offered in Utah must successfully pass a class that follows the CISM section of the Department-established EMD curriculum; and

(c) the individual must:

(i) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(ii) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(iii) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(iv) submit documentation of current NAEMD certification.

(7) Each EMD is individually responsible to complete and submit the required recertification material to the Department. Each EMD should submit all recertification materials to the Department at one time and no later than 30 days and no earlier than one year prior to the EMD's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMD; however, the EMD remains responsible for a timely and complete submission.

R426-12-604. EMD Lapsed Certification.

(1) An individual whose EMD certification has expired for less than one year may complete all recertification requirements and pay a late recertification fee to become recertified.

(2) An individual whose certification has expired for more than one year must take an EMD course and reapply as if there were no prior certification.

R426-12-605. EMD Testing Failures.

(1) An individual who fails any part of the EMD certification written or practical examination may retake the EMD examination once without further course work.

(a) If the individual fails on the re-examination, he must take a complete EMD training course to be eligible for further examination.

(b) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) If an EMD fails the written or practical recertification examination after two attempts, he may, within 30 days following notification in writing of this second failure, submit a written request to take the test a third time.

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) The training officer of the individual's EMS provider organization or a certified training officer who would mentor a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information regarding a remediation plan.

(5) The hearing panel shall review whether a program of re-education and reexamination within 30 days would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination within 30 days of its decision if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMD may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-700. Emergency Medical Services Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-12-701; and

(b) has been certified in Utah EMS as an EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher for 12 months.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMS Instructor Training Program: National Standard Curriculum" (EMS Instructor Curriculum) as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must abide by the terms of the "EMS Instructor Contract," teach according to the contract, and comply with the teaching standards and procedures in the EMS Instructor Manual or EMD Instructor Manual as incorporated into the respective "EMS Instructor Contract" or "EMD Instructor Contract."

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-12-701. EMS Instructor Certification.

(1) The Department may certify an individual who is an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as an EMS Instructor for a two year period.

(2) An individual who wishes to become certified as an EMS Instructor must:

(a) submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

(d) successfully complete all required examinations;

(e) submit biennially a completed and signed "EMS

Instructor Contract" to the Department agreeing to abide by the standards and procedures in the then current EMS Instructor Manual or EMD Instructor Manual; and

(f) successfully complete the Department-sponsored initial EMS instructor training course.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMT-B, EMT-I, EMT-IA, or paramedic courses must also:

(a) provide documentation of 30 hours of patient care within the prior year; and

(b) submit verification that the individual is recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association; and

(4) An individual who wishes to become certified as an EMS Instructor to teach EMD courses must also successfully complete the Department-sponsored initial EMS instructor training course.

(5) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

R426-12-702. EMS Instructor Recertification.

An EMS instructor who wishes to recertify as an instructor must:

(1) maintain current EMS certification;

(2) attend the required Department-approved recertification training;

(3) submit verification of 30 hours of EMS teaching experience in the prior two years;

(4) if teaching an EMT-B, EMT-I, EMT-IA, paramedic course, submit verification that the instructor is currently recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association;

(5) submit an application and pay all applicable fees;

(6) successfully complete any Department-required examination; and

(7) submit biennially a completed and signed "EMS Instructor Contract" to the Department agreeing to abide by the standards and procedures in the current EMS Instructor Manual.

R426-12-703. EMS Instructor Lapsed Certification.

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements in R426-12-702.

(2) An EMS instructor whose instructor certification has expired for more than two years must complete all initial instructor certification requirements and reapply as if there were no prior certification.

R426-12-800. Emergency Medical Services Training Officer Requirements.

(1) The Department may certify an individual as a training officer for a one year period.

(2) A training officer must abide by the terms of the "Training Officer Contract" and comply with the standards and procedures in the Training Officer Manual as incorporated into the "Training Officer Contract."

R426-12-801. Emergency Medical Services Training Officer Certification.

(1) An individual who wishes to be certified as a training officer must:

(a) be currently certified as an EMS instructor;

(b) successfully complete the Department's course for new training officers;

(c) successfully complete any Department examinations;

(d) submit an application and pay all applicable fees; and

(e) submit annually a completed and signed "Training Officer Contract" to the Department agreeing to abide by the

standards and procedures in the then current Training Officer Manual.

(2) A training officer must maintain EMS instructor certification to retain training officer certification.

R426-12-802. Emergency Medical Services Training Officer Recertification.

A training officer who wishes to recertify as a training officer must:

- (1) attend a training officer seminar every year;
- (2) maintain current EMS instructor certification;
- (3) submit an application and pay all applicable fees;
- (4) successfully complete any Department-examination requirements; and
- (5) submit annually a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current training officer manual.

R426-12-803. Emergency Medical Services Training Officer Lapsed Certification.

A training officer whose training officer certification has expired must complete all initial training officer certification requirements and reapply as if there were no prior certification.

R426-12-900. Course Coordinator Certification.

(1) The Department may certify an individual as a course coordinator for a one year period.

(2) A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

R426-12-901. Course Coordinator Certification.

An individual who wishes to certify as a course coordinator must:

- (1) be certified as an EMS instructor for one year;
- (2) be an instructor of record for at least one Department-approved course;
- (3) have taught a minimum of 15 hours in a Department-approved course;
- (4) have co-coordinated one Department-approved course with a certified course coordinator;
- (5) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (6) complete certification requirements prior to application to the Department's course for new course coordinators;
- (7) submit an application and pay all applicable fees;
- (8) complete the Department's course for new course coordinators;
- (9) successfully complete all examination requirements;
- (10) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (11) maintain EMS instructor certification.

R426-12-902. Course Coordinator Recertification.

A course coordinator who wishes to recertify as a course coordinator must:

- (1) maintain current EMS instructor certification;
- (2) coordinate or co-coordinate at least one Department-approved course every two years;
- (3) attend a course coordinator seminar every year;
- (4) submit an application and pay all applicable fees;
- (5) successfully complete all examination requirements; and
- (6) sign and submit annually a Course Coordinator Contract to the Department agreeing to abide by the policies and

procedures in the then current Course Coordinator Manual.

R426-12-903. Emergency Medical Services Course Coordinator Lapsed Certification.

A course coordinator whose course coordinator certification has expired must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

R426-12-1000. Paramedic Training Institutions Standards Compliance.

(1) A person must be authorized by the Department to provide training leading to the certification of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person must:

- (a) enter into the Department's standard paramedic training contract; and
- (b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-12-1100. Course Approvals.

A course coordinator offering EMS training to individuals to become certified must obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

- (1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;
- (2) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;
- (3) the Department finds that the course meets all the Department rules and contracts governing training;
- (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and
- (5) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-12-1200. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four year period.

- (2) An off-line medical director must be:
 - (a) a physician actively engaged in the provision of emergency medical care;
 - (b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and
 - (c) familiar with medical equipment and medications required under "R426 Equipment, Drugs and Supplies List."

R426-12-1201. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director must:

- (a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;
- (b) submit an application and;
- (c) pay all applicable fees.
- (2) An individual who wishes to recertify as an off-line medical director must:
 - (a) retake the medical director training course every four years;
 - (b) submit an application; and
 - (c) pay all applicable fees.

R426-12-1300. Refusal, Suspension or Revocation of Certification.

(1) The Department shall exclude from EMS certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMS personnel, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification from individuals convicted of any of the following crimes:

(i) sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(ii) sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person;

(iii) abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility; and

(iv) crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnapping, robbery of any degree; or arson; or attempts to commit such crimes;

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole;

(ii) conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) crimes of violence against persons, such as assault;

(B) crimes defined as domestic violence under Section 77-36-1;

(C) crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department may deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) the seriousness of the crime;

(ii) whether the crime relates directly to the skills of pre-hospital care service and the delivery of patient care;

(iii) the amount of time that has elapsed since the crime was committed;

(iv) whether the crime involved violence to or abuse of another person;

(v) whether the crime involved a minor or a person of diminished capacity as a victim;

(vi) whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of

public trust;

(vii) the total number of arrests and convictions; and

(viii) whether the applicant was truthful regarding the crime on his or her application.

(2) Certified EMS personnel must notify the Department of any arrest, charge, or conviction within 30 days of the arrest, charge or conviction.

(3) The Department may require EMS personnel to submit to a background examination or a drug test upon Department request.

(4) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification, or place a certification on probation, for any of the following causes:

(a) any of the reasons for exclusion listed in Subsection (1);

(b) a violation of Subsection (2);

(c) a refusal to submit to a background examination pursuant to Subsection (3);

(d) habitual or excessive use or addiction to narcotics or dangerous drugs;

(e) refusal to submit to a drug test administered by the individual's EMS provider organization or the Department;

(f) habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMS personnel or while driving any Department-permitted vehicle;

(g) failure to comply with the training, certification, or recertification requirements for the certification;

(h) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator;

(i) fraud or deceit in applying for or obtaining a certification;

(j) fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as a certified individual;

(k) unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or agency licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions;

(o) mental incompetence as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) inability to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated; and

(r) misrepresentation of an individual's level of certification;

(s) failure to display state-approved emblem with level of certification during an EMS response, and

(t) other or good cause, including conduct which is unethical, immoral, or dishonorable to the extent that the conduct reflects negatively on the EMS profession or might cause the public to lose confidence in the EMS system.

(5)(a) The Department may suspend an individual for a felony or misdemeanor arrest or charge pending the resolution of the charge if the nature of the charge is one that, if true, the Department could revoke the certification under subsection (1);

and

(b) The Department may order EMS personnel not to practice when an active criminal or administrative investigation is being conducted.

R426-12-1400. Penalties.

As required by Subsection 63-46a-3(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

February 1, 2005

26-8a-302

Notice of Continuation September 20, 2004

R426. Health, Health Systems Improvement, Emergency Medical Services.**R426-13. Emergency Medical Services Provider Designations.****R426-13-100. Authority and Purpose.**

This rule is established under Title 26, Chapter 8a. It establishes standards for the designation of emergency medical service providers.

R426-13-200. Designation Types.

(1)(a) An entity that provides pre-hospital emergency medical care, but that does not provide ambulance transport or paramedic service, may obtain a designation from the Department as a quick response unit.

(b) An entity that accepts calls for 911 EMS assistance from the public, and dispatches emergency medical vehicles and field EMS personnel must first obtain a designation from the Department as an emergency medical dispatch center.

(2) A hospital that provides on-line medical control for prehospital emergency care must first obtain a designation from the Department as a resource hospital.

(3) Emergency Medical Dispatch centers that provide pre-arrival medical instructions to a caller may only provide them through a certified EMD.

R426-13-300. Service Levels.

A quick response unit may only operate and perform the skills at the service level at which it is designated. The Department may issue designations for the following types of service at the given levels:

- (a) quick response unit;
 - (i) Basic; and
 - (ii) Intermediate.
- (b) emergency medical dispatch center; and
- (c) resource hospital.

R426-13-400. Quick Response Unit Minimum Designation Requirements.

A quick response unit must meet the following minimum requirements:

(1) Have sufficient vehicles, equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its designation;

(2) Have locations for stationing its vehicles;

(3) Have a current dispatch agreement with a public safety answering point that answers and responds to 911 or E911 calls, or with a local single access public safety answering point that answers and responds to requests for emergency assistance;

(4) Have a Department-certified training officer;

(5) Have a current plan of operations, which shall include:

- (a) the number, training, and certification of personnel;
- (b) operational procedures; and
- (c) a description of how the designee proposes to interface with other EMS agencies;

(6) Have sufficient trained and certified staff that meet the requirements of R426-15 Licensed and Designated provider Operations;

(7) Have a current agreement with a Department-certified off-line medical director;

(8) Have current treatment protocols approved by the agencies off-line medical director for the designated service level;

(9) Provide the Department with a copy of its certificate of insurance; and

(10) Not be disqualified for any of the following reasons:

- (a) violation of Subsection 26-8a-504; or
- (b) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.

R426-13-500. Emergency Medical Dispatch Center Minimum Designation Requirements.

An emergency medical dispatch center must:

(1) Have in effect a selective medical dispatch system approved by the off-line medical directors and the Department, which includes:

- (a) systemized caller interrogation questions;
- (b) systemized pre-arrival instructions; and
- (c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(2) Have a current updated plan of operations, which shall include:

(a) the number, training, and certification of EMD personnel;

(b) operational procedures; and

(c) a description of how the designee proposes to communicate with EMS agencies;

(3) Have a certified off-line medical director;

(3) have an ongoing medical call review quality assurance program; and

(4) sufficient staff to provide pre-hospital arrival instructions by a certified EMD at all times.

R426-13-600. Quick Response Unit and Emergency Medical Dispatch Center Application.

An entity desiring a designation or a renewal of its designation as a quick response unit or an emergency medical dispatch center shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the minimum requirements for the designation listed in this rule and the following:

(1) Identifying information about the entity and its principals;

(2) The name of the person or governmental entity financially and otherwise responsible for the service provided by the designee and documentation from that entity accepting the responsibility;

(3) Identifying information about the entity that will provide the service and its principals;

(4) If the applicant is not a governmental entity, a statement of type of entity and certified copies of the documents creating the entity;

(5) A description of the geographical area that it will serve;

(6) Documentation of the on-going medical call review and quality assurance program;

(7) Documentation of any modifications to the medical dispatch protocols; and

(8) Other information that the Department determines necessary for the processing of the application and the oversight of the designated entity.

R426-13-700. Resource Hospital Minimum Requirements.

A resource hospital must meet the following minimum requirements:

(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;

(2) Have protocols for providing on-line medical direction to pre-hospital emergency medical care providers;

(3) Have the ability to communicate with other EMS providers operating in the area; and

(4) Be willing and able to provide on-line medical direction to quick response units, ambulance services and paramedic services operating within the state;

R426-13-800. Resource Hospital Application.

A hospital desiring to be designated as a resource hospital shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall provide:

- (1) The name of the hospital to be designated;
- (2) The hospital's address;
- (3) The name and phone number of the individual who supervises the hospital's responsibilities as a designated resource hospital; and
- (4) Other information that the Department determines necessary for the processing of the application and the oversight of the designated entity.

R426-13-900. Criteria for Denial of Designation.

- (1) The Department may deny an application for a designation for any of the following reasons:
 - (a) failure to meet requirements as specified in the rules governing the service;
 - (b) failure to meet vehicle, equipment, or staffing requirements;
 - (c) failure to meet requirements for renewal or upgrade;
 - (d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;
 - (e) failure to meet agreements covering training standards or testing standards;
 - (f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;
 - (g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;
 - (h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;
 - (i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;
 - (j) failure to submit records and other data to the Department as required by statute or rule;
 - (k) misuse of grant funds received under Section 26-8a-207; and
 - (l) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.
- (2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within thirty calendar days of the issuance of the Department's denial.

R426-13-1000. Application Review and Award.

- (1) If the Department finds that an application for designation is complete and that the applicant meets all requirements, it may approve the designation.
- (2) Issuance of a designation by the Department is contingent upon the applicant's demonstration of compliance with all applicable rules and a successful Department quality assurance review.
- (3) A designation may be issued for up to a four-year period. The Department may alter the length of the designation to standardize renewal cycles.

R426-13-1100. Change in Service Level.

- (1) A quick response unit EMT-Basic may apply to provide a higher level of service at the EMT-Intermediate service level by:
 - (a) submitting the applicable fees; and
 - (b) submitting an application on Department-approved forms to the Department.
- (2) As part of the application, the applicant shall provide:
 - (a) a copy of the new treatment protocols for the higher

level of service approved by the off-line medical director;

(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service; and

(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director.

(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

R426-13-1300. Penalties.

As required by Subsection 63-46a-3(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

February 1, 2005

Notice of Continuation October 1, 2004

26-8a

R426. Health, Health Systems Improvement, Emergency Medical Services.**R426-14. Ambulance Service and Paramedic Service Licensure.****R426-14-100. Authority and Purpose.**

This rule is established under Title 26, Chapter 8a. It establishes standards for the licensure of ambulance and paramedic services.

R426-14-101. Requirement for Licensure.

A person or entity that provides or represents that it provides ambulance or paramedic services must first be licensed by the Department.

R426-14-200. Licensure Types.

The Department issues licenses for a type of service at a certain service level.

(1) The Department may issue ambulance licenses for the following types of service at the given levels:

- (a) Basic;
- (b) Intermediate;
- (c) Intermediate Advanced; and
- (d) Paramedic.

(2) The Department may issue ground ambulance inter-facility transfer licenses for the following types of service at the given levels:

- (a) Basic;
- (b) Intermediate;
- (c) Intermediate Advanced; and
- (d) Paramedic.

(3) The Department may issue paramedic, non-transport licenses for the following types of service at the given response configurations:

- (a) Paramedic Rescue; and
- (b) Paramedic Tactical Rescue.

R426-14-201. Scope of Operations.

(1) A licensee may only provide service to its specific licensed geographic service area and is responsible to provide service to its entire specific geographic service area. It may provide emergency medical services for its category of licensure that corresponds to the certification levels in R426-12 Emergency Medical Services Training and Certification Standards.

(2) A licensee may not subcontract. A subcontract is present if a licensee engages a person that is not licensed to provide emergency medical services to all or part of its specific geographic service area. A subcontract is not present if multiple licensees allocate responsibility to provide ambulance services between them within a specific geographic service area for which they are licensed to provide ambulance service.

(3) A ground ambulance inter-facility transfer licensee may only transport patients from a hospital, nursing facility, emergency patient receiving facility, mental health facility, or other medical facility when arranged by the transferring physician for the particular patient.

R426-14-300. Minimum Licensure Requirements.

(1) A licensee must meet the following minimum requirements:

(a) have sufficient ambulances, emergency response vehicles, equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensees;

(b) have locations or staging areas for stationing its vehicles;

(c) have a current written dispatch agreement with a public safety answering point that answers and responds to 911 or

E911 calls, or with a local single access public safety answering point that answers and responds to requests for emergency assistance;

(d) have current written aid agreements with other licensees to give assistance in times of unusual demand;

(e) have a Department certified EMS training officer;

(f) have a current plan of operations, which shall include:

(i) a business plan demonstrating its:

(A) ability to provide the service; and

(B) financial viability.

(ii) the number, training, and certification of personnel;

(iii) operational procedures; and

(iv) a description of the how the licensee or applicant proposes to interface with other EMS agencies;

(g) have sufficient trained and certified staff that meet the requirements of R426-15 Licensed and Designated Provider Operations;

(h) have a current written agreement with a Department-certified off-line medical director;

(i) have current treatment protocols approved by the agency's off-line medical director for the existing service level or new treatment protocols if seeking approval under 26-8a-405;

(j) be able to pay its debts as they become due;

(k) provide the Department with a copy of its certificate of insurance or if seeking application approval under 26-8a-405, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the manner and minimum amounts specified in R426-15-204. All licensees shall:

(i) obtain insurance from an insurance carrier authorized to write liability coverage in Utah or through a self-insurance program;

(ii) report any coverage change to the Department within 60 days after the change; and

(iii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage.

(l) not be disqualified for any of the following reasons:

(i) violation of Subsection 26-8a-504; or

(ii) disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state that adversely affect its service under its license.

(2) A paramedic tactical rescue must be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical rescue's geographic service area.

R426-14-301. Application, Department Review, and Issuance.

(1) An applicant desiring to be licensed or to renew its license shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-14-300 and the following:

(a) a detailed description and detailed map of the exclusive geographical area that it will serve;

(i) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(ii) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions of all geographical areas served in accordance with 26-8a-405.2 (2).

(b) for an applicant for a new service, documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;

(c) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(d) for renewal applications, a written assessment of field performance from the applicant's off-line medical director; and

(e) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.

(2) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of a special district or unified fire authority holding such a license, may respond to a request for proposal if it complies with 26-8a-405(2).

(3) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application as required by 26-8a-405 and 406;

(b) issue a renewal license to an applicant in accordance with 26-8a-413(1) and (2);

(c) issue a license to an applicant selected by a political subdivision in accordance with 26-8a-405.1(3);

(d) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); or

(e) issue a second four-year renewal license to a licensee selected by a political subdivision if:

(i) the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(4) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statutes and rules and a successful Department quality assurance review.

(5) A license may be issued for up to a four-year period. The Department may alter the length of the license to standardize renewal cycles.

R426-14-302. Selection of a Provider by Public Bid.

(1) A political subdivision that desires to select a provider through a public bid process as provided in 26-8a-405.1, shall submit its draft request for proposal to the Department in accordance with 26-8a-405.2(2), together with a cover letter listing all contact information. The proposal shall include all the criteria listed in 26-8a-405.1 and 405.2.

(2) The Department shall, within 14 business days of receipt of a request for proposal from a political subdivision, review the request according to 26-8a-405.2(2) and:

(a) approve the proposal by sending a letter of approval to the political subdivision;

(b) require the political subdivision to alter the request for proposal to meet statutory and rule requirements; or

(c) deny the proposal by sending a letter detailing the reasons for the denial and process for appeal.

R426-14-303. Application Denial.

(1) The Department may deny an application for a license or a renewal of a license without reviewing whether a license must be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violation of Subsection 26-8a-504(1);

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;

(j) financial insolvency;

(k) failure to submit records and other data to the Department as required by R426-7;

(l) a history of inappropriate billing practices, such as:

(i) charging a rate that exceeds the maximum rate allowed by rule;

(ii) charging for items or services for which a charge is not allowed by statute or rule; or

(iii) Medicare or Medicaid fraud.

(m) misuse of grant funds received under Section 26-8a-207; and

(n) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant that has been denied a license may appeal by filing a written appeal within thirty calendar days of the issuance of the Department's denial.

R426-14-400. Change in Service Level.

(1) A ground ambulance service licensee may apply to provide a higher level of non-911 ambulance or paramedic service. The applicant shall submit:

(a) the applicable fees; and

(b) an application on Department-approved forms to the Department.

(c) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(d) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service; and

(e) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director.

(2) If the Department determines that the applicant has demonstrated the ability to provide the higher level of service, it shall issue a revised license reflecting the higher level of service without making a separate finding of public convenience and necessity.

R426-14-401. Change of Owner.

A license and the vehicle permits terminate if the holder of a licensed service transfers ownership of the service to another party. As outlined in 26-8a-415, the new owner must submit, within ten business days of acquisition, applications and fees for a new license and vehicle permits.

R426-14-500. Aid Agreements.

(1) A ground ambulance service must have in place aid agreements with other ground ambulance services to call upon them for assistance during times of unusual demand.

(2) Aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of the aid agreement to the emergency medical dispatch centers that dispatch the licensees.

(4) A ground ambulance licensee must provide all ambulance service, including standby services, for any special event that requires ground ambulance service within its geographic service area. If the ground ambulance licensee is unable or unwilling to provide the special event coverage, the licensee may arrange with a ground ambulance licensee through the use of aid agreements to provide all ground ambulance service for the special event.

R426-14-600. Penalties.

As required by Subsection 63-46a-3(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

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26-8a

Notice of Continuation October 1, 2004

R426. Health, Health Systems Improvement, Emergency Medical Services.**R426-15. Licensed and Designated Provider Operations.****R426-15-100. Authority and Purpose.**

This rule is established under Title 26, Chapter 8a. It establishes standards for the operation of EMS providers licensed or designated under the provisions of the Emergency Medical Services System Act.

R426-15-200. Staffing.

(1) EMT ground ambulances, while providing ambulance services, shall have the following minimum complement of personnel:

(a) two attendants, each of whom is a certified EMT-Basic, EMT-Intermediate, EMT-Intermediate Advanced, or Paramedic.

(b) a driver, 18 years of age or older, who is the holder of a valid driver's license. If the driver is also an EMT-Basic, EMT-Intermediate, EMT-Intermediate Advanced, or Paramedic, the driver qualifies as one of the two required attendants.

(c) EMT ground ambulance services authorized by the Department to provide Intermediate or Intermediate Advanced services shall assure that at least one EMT-Intermediate or EMT-Intermediate Advanced responds on each call along with another certified EMT.

(d) if on-line medical control determines the condition of the patient to be "serious or potentially critical," at least one paramedic shall accompany the patient on board the ambulance to the hospital, if a Paramedic rescue is on scene.

(e) if on-line medical control determines the condition of the patient to be "critical," the ambulance driver and two Paramedics shall accompany the patient on board the ambulance to the hospital, if Paramedics are on scene.

(2) Quick response units, while providing services, shall have the following minimum complement of personnel:

(a) one attendant, who is an EMT-Basic, EMT-Intermediate, EMT-Intermediate Advanced, or Paramedic.

(b) quick response units authorized by the Department to provide Intermediate services shall assure that at least one EMT-Intermediate, EMT Intermediate Advanced or Paramedic responds on each call.

(3) Paramedic ground ambulance or rescue services shall have the following minimum complement of personnel:

(a) staffing at the scene of an accident or medical emergency shall be no less than two persons, each of whom is a Paramedic;

(b) a paramedic ground ambulance service while providing paramedic ambulance services, shall have two attendants, each of whom is a Paramedic;

(c) a driver, 18 years of age or older, who is the holder of a valid driver's license. If the driver is also a Paramedic, the driver qualifies as one of the two required attendants; and

(d) if a paramedic ground ambulance has been requested by a transferring physician for inter-facility movement of a patient, the staffing shall be as follows:

(i) if the physician describes the condition of the patient as "serious or potentially critical," minimum staffing shall be one Paramedic, and one EMT-Basic, EMT-Intermediate, or EMT Intermediate Advanced;

(ii) if the physician describes the condition of the patient as "critical," minimum staffing shall be an ambulance driver and two Paramedics.

(4) Paramedic inter-facility transfer services shall have the following minimum complement of personnel:

(a) if the physician describes the condition of the patient as "serious or potentially critical," minimum staffing shall be one Paramedic, and one EMT-Basic, EMT-Intermediate, or EMT-Intermediate Advanced;

(b) if the physician describes the condition of the patient as "critical," minimum staffing shall be two Paramedics and an

ambulance driver.

(5) Each licensee shall maintain a personnel file for each certified individual. The personnel file must include records documenting the individual's qualifications, training, certification, immunizations, and continuing medical education.

(6) An EMT or Paramedic may only perform to the service level of the licensed or designated service, regardless of the certification level of the EMT or Paramedic.

R426-15-201. Vehicle Permit.

(1) EMS provider organizations that operate vehicles that Section 26-8a-304 requires to have a permit must annually obtain a permit and display a permit decal for each of its vehicles used in providing the service.

(2) The Department shall issue annual permits for vehicles used by licensees only if the new or replacement ambulance meets the:

(a) Federal General Services Administration Specification for ground ambulances as of the date of manufacture; and

(b) equipment and vehicle supply requirements.

(3) The Department may give consideration for a variance from the requirements of Subsection (2) to communities with limited populations or unique problems for purchase and use of ambulance vehicles.

(4) The permittee shall display the permit decal showing the expiration date and number issued by the Department on a publicly visible place on the vehicle.

(5) Permits and decals are not transferrable to other vehicles.

R426-15-202. Permitted Vehicle Operations.

(1) Ambulance licensees shall notify the Department of the permanent location or where the vehicles will be staged if using staging areas. The licensee shall notify the Department in writing whenever it changes the permanent location for each vehicle.

(2) Vehicles shall be maintained on a premises suitable to make it available for immediate use, in good mechanical repair, properly equipped, and in a sanitary condition.

(3) Each ambulance shall be maintained in a clean condition with the interior being thoroughly cleaned after each use in accordance with OSHA standards.

(4) Each ambulance shall be equipped with adult and child safety restraints and to the point practicable all occupants must be restrained.

R426-15-203. Vehicle Supply Requirements.

(1) In accordance with the licensure or designation type and level, the permittee shall carry on each permitted vehicle the minimum quantities of supplies, medications, and equipment as described in this subsection. Optional items are marked with an asterisk.

EQUIPMENT AND SUPPLIES FOR BASIC QUICK RESPONSE

2 Blood pressure cuffs, one adult, one pediatric
2 Stethoscopes, one adult and one pediatric or combination

2 Heavy duty shears
2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"
8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape
4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages
2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

- 2 Concentrated oral glucose tubes or equivalent
- 1 Portable jump kit stocked with appropriate medical supplies

AIRWAY EQUIPMENT AND SUPPLIES

- 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
- 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
- 1 Baby syringe, bulb type, separate from the OB kit
- 3 Oropharyngeal airways, with one adult, one child, and one infant size
- 3 Nasopharyngeal airways, one adult, one child, and one infant
- 2 Non-rebreather or partial non-rebreather oxygen masks, one adult and one pediatric
- 1 Nasal cannula, adult
- 1 Portable oxygen apparatus, capable of metered flow with adequate tubing

AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES

- 1 Defibrillator, automatic portable battery operated, per vehicle or response unit
- 2 Sets of electrode pads for defibrillation

REQUIRED DRUGS

- 650mg Aspirin
- 2 Epinephrine auto-injectors, one standard and one junior

EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE QUICK RESPONSE

- 2 Blood pressure cuffs, one adult, one pediatric
- 2 Stethoscopes, one adult and one pediatric or combination
- 2 Heavy duty shears
- 2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent
- 12 Gauze pads, sterile, 4"x4"
- 8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent
- 2 Rolls of tape
- 4 Cervical collars, one adult, one child, one infant, plus one other size
- 2 Triangular bandages
- 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
- 2 Concentrated oral glucose tubes or equivalent
- 1 Portable jump kit stocked with appropriate medical supplies

- 1 Glucose measuring device

AIRWAY EQUIPMENT AND SUPPLIES

- 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
- 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
- 1 Baby syringe, bulb type, separate from the OB kit
- 3 Oropharyngeal airways, with one adult, one child, and one infant size
- 3 Nasopharyngeal airways, one adult, one child, and one infant
- 2 O2 masks, non-rebreather or partial non-rebreather, one adult and one pediatric
- 1 Nasal cannula, adult
- 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
- 2 Small volume nebulizer container for aerosol solutions
- 1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs*
- 1 Water based lubricant, one tube or equivalent*
- 7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3*
- 2 Stylets, one adult and one pediatric*

- 1 Device for securing the endotracheal tube*
- 2 Endotracheal tube confirmation device*
- 2 Flexible sterile endotracheal suction catheters from 5-12 french*

- 2 Oro-nasogastric tubes, one adult, and one pediatric *
- AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

- 1 Defibrillator, automatic portable battery operated, per vehicle or response unit
- 2 Sets of electrode pads for defibrillation

IV SUPPLIES

- 10 Alcohol or Iodine preps
- 2 IV start kits or equivalent
- 12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g
- 2 Arm boards, two different sizes
- 2 IV tubings with micro drip chambers
- 3 IV tubings with standard drip chambers
- 5 Extension tubings
- 4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc

- 1 Sharps container
- 1 Safety razor
- 1 Vacutainer holder
- 4 Vacutainer tubes

REQUIRED DRUGS

- 2 25gm Activated Charcoal
- 1 2.5mg premixed Albuterol Sulfate or equivalent
- 1 25gm preload 20mg/cc Dextrose 50% or Glucagon (must have 1 D50)

- 1 1cc (1mg/1cc) Epinephrine 1:1,000
- 2 Epinephrine 1:10,000 1mg each
- 2 Naloxone HCL 2mg each or equivalent
- 1 bottle or 0.4mg Nitroglycerine (tablets or spray)

- 650mg Aspirin

4,000cc Ringers Lactate or Normal Saline EQUIPMENT AND SUPPLIES FOR A BASIC AMBULANCE

- 2 Blood pressure cuffs, one adult, one pediatric
- 2 Stethoscopes, one adult and one pediatric or combination
- 2 Pillows, with vinyl cover or single use disposable pillows

- 2 Emesis basins, emesis bags, or large basins
- 1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

- 2 Head immobilization devices or equivalent
- 2 Lower extremity traction splints or equivalent, one adult and one pediatric

- 2 Non-traction extremity splints, one upper, one lower, or PASG pants
- 2 Spine boards, one short and one long (Wood must be coated or sealed)

- 2 Heavy duty shears
- 2 Urinals, one male, one female, or two universal
- 1 Printed Pediatric Reference Material

- 2 Blankets
- 2 Sheets
- 6 Towels
- 2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

- 12 Gauze pads, sterile, 4"x4"
- 8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

- 2 Rolls of tape
- 4 Cervical collars, one adult, one child, one infant, plus one other size
- 2 Triangular bandages

- 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
 - 1 Obstetrical kit, sterile
 - 2 Concentrated oral glucose tubes or equivalent
 - 2 Occlusive sterile dressings or equivalent
 - 1 Car seat, approved by Federal Safety standard
 - 1 Portable jump kit stocked with appropriate medical supplies
 - 2 Preventive T.B. transmission masks
 - 2 Protective eye wear (goggles or face shields)
 - 2 Full body substance isolation protection, or one for each crew member
 - 1 Thermometer or equivalent
 - 1 Water based lubricant, one tube or equivalent
 - 2 Biohazard bags
 - 1 Disinfecting agent for cleaning vehicle and equipment of body fluids
 - 1 Glucose measuring device
- AIRWAY EQUIPMENT AND SUPPLIES
 - 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
 - 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
 - 1 Baby syringe, bulb type, separate from the OB kit
 - 3 Oropharyngeal airways, with one adult, one child, and one infant size
 - 3 Nasopharyngeal airways, one adult, one child, and one infant
 - 4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric
 - 2 Nasal cannulas, adult
 - 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
 - 1 Permanent large capacity oxygen delivery system
- AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES
 - 1 Defibrillator, automatic portable battery operated, per vehicle or response unit
 - 2 Sets of electrode pads for defibrillation
- REQUIRED DRUGS
 - 1 500cc Irrigation solution
 - 650mg Aspirin
 - 2 Epinephrine auto-injectors, one standard and one junior
- EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE AMBULANCE
 - 2 Blood pressure cuffs, one adult, one pediatric
 - 2 Stethoscopes, one adult and one pediatric or combination
 - 2 Pillows, with vinyl cover or single use disposable pillows
 - 2 Emesis basins, emesis bags, or large basins
 - 1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds
 - 2 Head immobilization devices or equivalent
 - 2 Lower extremity traction splints or equivalent, one adult and one pediatric
 - 2 Non-traction extremity splints, one upper, one lower, or PASG pants
 - 2 Spine boards, one short and one long (Wood must be coated or sealed)
 - 2 Heavy duty shears
 - 2 Urinals, one male, one female, or two universal
 - 1 Printed Pediatric Reference Material
 - 2 Blankets
 - 2 Sheets
 - 6 Towels
 - 2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

- 12 Gauze pads, sterile, 4"x4"
- 8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent
 - 2 Rolls of tape
 - 4 Cervical collars, three adult and one pediatric or equivalent
 - 2 Triangular bandages
 - 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
 - 1 Obstetrical kit, sterile
 - 2 Concentrated oral glucose tubes or equivalent
 - 2 Occlusive sterile dressings or equivalent
 - 1 Car seat, approved by Federal Safety standard
 - 1 Portable jump kit stocked with appropriate medical supplies
 - 2 Preventive T.B. transmission masks
 - 2 Protective eye wear (goggles or face shields)
 - 2 Full body substance isolation protection or one for each crew member
 - 1 Thermometer or equivalent
 - 2 Biohazard bags
 - 1 Disinfecting agent for cleaning vehicle and equipment of body fluids
 - 1 Glucose measuring device
- AIRWAY EQUIPMENT AND SUPPLIES
 - 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
 - 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
 - 1 Baby syringe, bulb type, separate from the OB kit
 - 3 Oropharyngeal airways, with one adult, one child, and one infant size
 - 3 Nasopharyngeal airways, one adult, one child, and one infant
 - 4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric
 - 2 Nasal cannulas, adult
 - 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
 - 1 Permanent large capacity oxygen delivery system
 - 2 Small volume nebulizer container for aerosol solutions
 - 1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs *
 - 1 Water based lubricant, one tube or equivalent*
 - 7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3*
 - 2 Stylets, one adult and one pediatric*
 - 1 Device for securing the endotracheal tube*
 - 2 Endotracheal tube confirmation device*
 - 2 Flexible sterile endotracheal suction catheters from 5-12 french*
 - 2 Oro-nasogastric tubes, one adult, and one pediatric *
- AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES
 - 1 Defibrillator, automatic portable battery operated, per vehicle or response unit
 - 2 Sets of electrode pads for defibrillation
- IV SUPPLIES
 - 10 Alcohol or Iodine preps
 - 2 IV start kits or equivalent
 - 12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g
 - 2 Arm boards, two different sizes
 - 2 IV tubings with micro drip chambers
 - 3 IV tubings with standard drip chambers
 - 5 Extension tubings
 - 4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc
 - 1 Three-way stopcock

1 Sharps container
 1 Safety razor
 1 Vacutainer holder
 4 Vacutainer tubes
 2 Intraosseous needles, two each, 15 or 16, and 18 guage*
REQUIRED DRUGS
 2 25gm Activated Charcoal
 2 2.5mg premixed Albuterol Sulfate or equivalent
 2 Dextrose 50% or Glucagon (must have 1 D50)
 4 1cc (1mg/1cc) Epinephrine 1:1,000
 2 Epinephrine 1:10,000 1mg each
 2 100 mg preload Lidocaine
 2 10mg Morphine Sulfate
 2 Naloxone HCL 2mg each or equivalent
 1 bottle or 0.4mg Nitroglycerine (tablets or spray)
 1 2gm Lidocaine IV Drip
 1 500cc Irrigation solution
 650mg Aspirin
 4,000cc Ringers Lactate or Normal Saline
EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE ADVANCED AMBULANCE
 2 Blood pressure cuffs, one adult, one pediatric
 2 Stethoscopes, one adult and one pediatric or combination
 2 Pillows, with vinyl cover or single use disposable pillows
 2 Emesis basins, emesis bags, or large basins
 1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds
 2 Head immobilization devices or equivalent
 2 Lower extremity traction splints or equivalent, one adult and one pediatric
 2 Non-traction extremity splints, one upper, one lower, or PASG pants
 2 Spine boards, one short and one long (Wood must be coated or sealed)
 2 Heavy duty shears
 2 Urinals, one male, one female, or two universal
 1 Printed Pediatric Reference Material
 2 Blankets
 2 Sheets
 6 Towels
 2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent
 12 Gauze pads, sterile, 4"x4"
 8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent
 2 Rolls of tape
 4 Cervical collars, three adult and one pediatric or equivalent
 2 Triangular bandages
 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
 1 Obstetrical kit, sterile
 2 Concentrated oral glucose tubes or equivalent
 4 Occlusive sterile dressings or equivalent
 1 Car seat, approved by Federal Safety standard
 1 Portable jump kit stocked with appropriate medical supplies
 2 Preventive T.B. transmission masks
 2 Protective eye wear (goggles or face shields)
 2 Full body substance isolation protection or one for each crew member
 1 Thermometer or equivalent
 2 Biohazard bags
 1 Disinfecting agent for cleaning vehicle and equipment of body fluids
 1 Glucose measuring device

AIRWAY EQUIPMENT AND SUPPLIES
 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
 1 Baby syringe, bulb type, separate from the OB kit
 3 Oropharyngeal airways, with one adult, one child, and one infant size
 3 Nasopharyngeal airways, one adult, one child, and one infant
 2 Magill forceps, one adult and one child
 4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric
 2 Nasal cannulas, adult
 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
 1 Oxygen saturation monitor
 1 Permanent large capacity oxygen delivery system
 2 Small volume nebulizer container for aerosol solutions
 1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs
 1 Water based lubricant, one tube or equivalent
 7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3
 2 Stylets, one adult and one pediatric.
 1 Device for securing the endotracheal tube
 2 Endotracheal tube confirmation device
 2 Flexible sterile endotracheal suction catheters from 5-12 french
 2 Oro-nasogastric tubes, one adult, and one pediatric
DEFIBRILLATOR EQUIPMENT AND SUPPLIES
 1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities
 2 Sets Electrodes or equivalent
 2 Sets Combination type defibrillator pads or equivalent
 2 Combination type TCP Pads or equivalent
IV SUPPLIES
 10 Alcohol or Iodine preps
 2 IV start kits or equivalent
 12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g
 2 Arm boards, two different sizes
 2 IV tubings with micro drip chambers
 3 IV tubings with standard drip chambers
 5 Extension tubings
 4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc
 1 Three-way stopcock
 1 Sharps container
 1 Safety razor
 1 Vacutainer holder
 4 Vacutainer tubes
 2 Intraosseous needles, two each, 15 or 16, and 18 guage
REQUIRED DRUGS
 2 25gm Activated Charcoal
 3 6mg Adenosine
 2 2.5mg premixed Albuterol Sulfate or equivalent
 2 Atropine Sulfate 1mg
 2 Dextrose 50% or Glucagon (must have 1 D50)
 2 10mg vials
 Diazepam
 1 Epinephrine 1:1,000 15mg or equivalent
 2 Epinephrine 1:10,000 1mg each
 2 Furosemide 40mg each
 2 100 mg preload Lidocaine
 2 10mg Morphine Sulfate
 2 Naloxone HCL 2mg each or equivalent
 1 Bottle or 0.4mg Nitroglycerine (tablets or spray)
 1 2gm Lidocaine IV Drip

- 1 500cc Irrigation solution
- 650mg Aspirin
- 4,000cc Ringers Lactate or Normal Saline
- EQUIPMENT AND SUPPLIES FOR PARAMEDIC SERVICES
- 2 Blood pressure cuffs, one adult, one pediatric
- 2 Stethoscopes, one adult and one pediatric or combination
- 1 Thermometer or equivalent
- 1 Glucose measuring device
- 2 Head immobilization devices or equivalent
- 2 Lower extremity traction splints or equivalent, one adult and one pediatric
- 2 Non-traction extremity splints, one upper, one lower, or PASG pants
- 2 Spine boards, one short and one long. Wooden boards must be coated or sealed
- 1 Full body pediatric immobilization device. (Paramedic transfer units excluded)
- 2 Heavy duty shears
- 2 Blankets
- 2 Towels
- 2 Universal sterile dressings, 9"x5", 10"x8", 8"x 9", or equivalent
- 12 Gauze pads, sterile, 4" x 4".
- 8 Bandages, self-adhering, soft roller type, 4"x 5 yards or equivalent
- 2 Rolls of tape
- 4 Cervical collars, three adult and one pediatric or equivalent
- 2 Triangular bandages
- 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
- 2 Pairs Sterile gloves
- 1 Obstetrical kits, sterile
- 4 Occlusive sterile dressings or equivalent
- 1 Portable jump kit stocked with appropriate medical supplies
- 2 Emesis basins, emesis bags, or large basins
- 1 Printed Pediatric Reference Material
- AIRWAY EQUIPMENT AND SUPPLIES
- 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
- 1 Oxygen saturation monitor
- 1 Baby syringe, bulb type separate from the OB kit
- 1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs
- 1 Water based lubricant, one tube or equivalent
- 18 Endotracheal tubes, two each, uncuffed 3, 4 and 5, cuffed 5.5, 6, 6.5, 7, 7.5, 8
- 1 Device for securing the endotracheal tube
- 2 Endotracheal tube confirmation devices
- 2 Flexible sterile endotracheal suction catheters from 5-12 french
- 3 Oropharyngeal airways, one adult, one child, and one infant size
- 3 Nasopharyngeal airways, one adult, one child, and one infant size
- 2 Magill forceps, one child and one adult
- 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
- 2 Oro-nasogastric tubes, one adult, and one pediatric
- 4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric
- 2 Nasal cannulas, adult
- 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
- 2 Stylettes, one pediatric and one adult
- 2 Tongue blades

- 1 Meconium aspirator
- 1 Cricothyroidotomy kit or equivalent
- 2 Small volume nebulizer container for aerosol solutions
- DEFIBRILLATOR EQUIPMENT AND SUPPLIES
- 1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities
- 2 Sets Electrodes or equivalent
- 2 Sets Combination type defibrillator pads or equivalent
- 2 Sets Electrode wire sets or equivalent. (One only for paramedic transfer service)
- 2 Combination type TCP Pads or equivalent
- IV SUPPLIES
- 10 Alcohol or iodine preps
- 2 IV start kits or equivalent
- 12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g, 24g
- 4 Intraosseous needles, two each, 15 or 16 gauge and two 18 gauge
- 2 Arm boards, two different sizes
- 2 IV tubings with micro drip chambers
- 3 IV tubings with standard drip chambers
- 2 IV tubings with blood administration sets
- 5 Extension tubings
- 6 Syringes with luer lock, two each 3cc, 10cc, 60cc
- 1 Cath tipped syringe, 30cc or 60cc
- 2 Three-way stopcocks
- 1 Sharps container
- 1 Vacutainer holder
- 2 Vacutainer multiple sample luer adapters
- 4 Vacutainer tubes
- SAFETY AND PERSONAL PROTECTION EQUIPMENT
- 2 Preventive T.B. transmission masks
- 2 Protective eye wear (goggles or face shields)
- 2 Biohazard bags
- 2 Full body substance isolation protection or one for each crew member
- 1 Disinfecting agent for cleaning vehicle and equipment of body fluids
- 2 Protective headware
- 2 Pair leather gloves
- 2 Reflective safety vests or equivalent
- REQUIRED DRUGS
- 2 Bottles Activated Charcoal 25gm each
- 2 Albuterol Sulfate 2.5mg pre-mixed or equivalent
- 2 Atropine Sulfate 1mg
- 650mg Aspirin
- 2 Dextrose 50% or Glucagon (must have 1 D50)
- 2 Diazepam 10mg each
- 2 Diphenhydramine 50mg each
- 2 Dopamine HCL 400mg each
- 1 Epinephrine 1:1,000 15mg or equivalent
- 2 Epinephrine 1:10,000 1mg each
- 2 Furosemide 40mg each
- 2 Lidocaine 100mg each
- 1 Lidocaine IV drip 2g
- 2 Meperidine 100mg each
- 2 Morphine Sulfate 10mg each
- 4 Naloxone HCL 2mg each or equivalent
- 1 Bottle Nitroglycerine 0.4mg or equivalent tablets or spray
- 2 Oxytocin 20units each
- 2 Promethazine HCL 25mg each
- 1 Sodium Bicarbonate 10mEq
- 2 Sodium Bicarbonate 50mEq each
- 1 Irrigation solution, 500cc
- 4 Ammonia capsules
- 4,000cc Ringers Lactate or Normal Saline
- 1 Normal Saline for injection/inhalation (nebulizer and

saline locks)

(2) If a licensed or designated agency desires to carry different equipment, supplies, or medication from the vehicle supply requirements, it must submit a written request from the off-line medical director to the Department requesting the variance. The request shall include:

- (a) a detailed training outline;
- (b) protocols;
- (c) proficiency testing;
- (d) support documentation;
- (e) local EMS Council or committee comments; and
- (f) a detailed letter of justification.

(3) All equipment, except disposable items, shall be so designed, constructed, and of such materials that under normal conditions and operations, it is durable and capable of withstanding repeated cleaning. The permittee:

(a) shall clean the equipment after each use in accordance with OSHA standards;

- (b) shall sanitize or sterilize equipment prior to reuse;
- (c) may not reuse equipment intended for single use;
- (d) shall clean and change linens after each use; and

(e) shall store or secure all equipment in a readily accessible and protected manner and in a manner to prevent its movement during a crash.

(4) The permittee shall have all equipment tested, maintained, and calibrated in accordance with the manufacturer's standards.

(a) the permittee shall document all equipment inspections, testing, maintenance, and calibrations. Testing or calibration conducted by an outside service shall be documented and available for Department review.

(b) a permittee required to carry any of the following equipment shall perform monthly inspections to ensure its ability to function correctly:

- (i) defibrillator, manual or automatic;
- (ii) autovent;
- (iii) infusion pump;
- (iv) glucometer;
- (v) flow restricted, oxygen-powered ventilation devices;
- (vi) suction equipment;
- (vii) electronic Doppler device;
- (viii) automatic blood pressure/pulse measuring device;
- (ix) pulse oximeter.

(c) for all pieces of required equipment that require consumables for the operation of the equipment; power supplies; electrical cables, pneumatic power lines, hydraulic power lines, or related connectors, the permittee shall perform monthly inspections to ensure their correct function.

(5) A licensee shall:

(a) store all medications according to the manufacturers' recommendations for temperature control and packaging requirements; and

(b) return to the supplier for replacement any medication known or suspected to have been subjected to temperatures outside the recommended range.

R426-15-204. Insurance.

(1) An ambulance licensee shall obtain insurance to respond to damages due to operation of the vehicle, in the manner and minimum amounts specified below:

(a) liability insurance in the amount of \$300,000 for each individual claim and \$500,000 for total claims for personal injury from any one occurrence.

(b) liability insurance in the amount of \$100,000 for property damage from any one occurrence.

(2) The ambulance licensee shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program. The ambulance licensee shall provide the Department with a copy of its

certificate of insurance demonstrating compliance with this section.

(3) The ambulance licensee shall report any coverage change and reportable vehicle accident occurring during the provision of emergency medical services to the Department within 60 days after the change or reportable vehicle accident. The ambulance licensee must direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage.

R426-15-205. Communications.

All permitted vehicles shall be equipped to allow field EMS personnel to be able to:

(1) Communicate with hospital emergency departments, dispatch centers, EMS providers, and law enforcement services; and

(2) Communicate on radio frequencies assigned to the Department for EMS use by the Federal Communications Commission.

R426-15-300. Emergency Medical Dispatch Center.

(1) An emergency medical dispatch center must annually provide organizational information to the Department including:

- (a) The number of EMD certified personnel;
- (b) Name of the dispatch supervisor;
- (c) Name of the agency's off-line medical director; and
- (d) Updated address and contact information.

(2) Emergency medical dispatch centers may only provide pre-arrival medical instructions through a certified EMD.

(3) An emergency medical dispatch center must have an offline medical director. The offline medical director must review and approve the emergency medical dispatch center's pre-arrival medical instructions.

R426-15-400. Resource Hospital.

(1) A resource hospital must provide on-line medical control for all prehospital EMS providers who request assistance for patient care, 24 hours-a-day, seven days a week. A resource hospital must:

(a) create and abide by written prehospital emergency patient care protocols for use in providing on-line medical control for prehospital EMS providers;

(b) train new staff on the protocols before the new staff is permitted to provide on-line medical control; and annually review with physician and nursing staff

(c) annually provide in-service training on the protocols to all physicians and nurses who provide on-line medical control; and

(d) make the protocols immediately available to staff for reference.

(2) The on-line medical control shall be by direct voice communication with a physician or a registered nurse or physician's assistant licensed in Utah who is in voice contact with a physician.

(3) A resource hospital must establish and actively implement a quality improvement process.

(a) the hospital must designate a medical control committee.

(b) the committee must meet at least quarterly to review and evaluate prehospital emergency runs, continuing medical education needs, and EMS system administration problems.

(i) committee members must include an emergency physician representative, hospital nurse representative, hospital administration representative, and ambulance and emergency services representatives.

(ii) the hospital must keep minutes of the medical control committee's meetings and make them available for Department review.

(c) the hospital must appoint a quality review coordinator

for the prehospital quality improvement process.

(d) the hospital must cooperate with the prehospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular prehospital EMS provider.

(e) the hospital must assist the Department in evaluating EMS system effectiveness by submitting to the Department, in an electronic format specified by the Department, quarterly data specified by the Department.

R426-15-401. Medical Control.

(1) All licensees, designated dispatch centers, and quick response units must enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician must be familiar with:

(a) the design and operation of the local prehospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols or pre-arrival instructions to be given by designated emergency medical dispatch centers.

(3) The off-line medical director shall ensure the qualification of field EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(4) The off-line medical director shall:

(a) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(b) annually review triage, treatment, and transport protocols and update them as necessary;

(c) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director must notify the Department within one business day of the suspension.

(d) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers.

R426-15-402. Scene and Patient Management.

(1) Upon arrival at the scene of an injury or illness, the field EMS personnel shall secure radio or telephonic contact with on-line medical control as quickly as possible.

(2) If radio or telephonic contact cannot be obtained, the field EMS personnel shall so indicate on the EMS report form and follow local written protocol;

(3) If there is a physician at the scene who wishes to assist or provide on-scene medical direction to the field EMS personnel, the field EMS personnel must follow his instructions, but only until communications are established with on-line medical control. If the proposed treatment from the on-scene physician differs from existing EMS triage, treatment, and transport protocols and is contradictory to quality patient care, the field EMS personnel may revert to existing EMS triage, treatment, and transport protocols for the continued management of the patient.

(a) if the physician at the scene wishes to continue directing the field EMS personnel's activities, the field EMS personnel shall so notify on-line medical control;

(b) the on-line medical control may:

(i) allow the on-scene physician to assume or continue medical control;

(ii) assume medical control, but allowing the physician at the scene to assist; or

(iii) assume medical control with no participation by the on-scene physician.

(c) if on-line medical control allows the on-scene physician to assume or continue medical control, the field EMS personnel shall repeat the on-scene physician's orders to the on-line medical control for evaluation and recording. If, in the judgment of the on-line medical control who is monitoring and evaluating the at-scene medical control, the care is inappropriate to the nature of the medical emergency, the on-line medical control may reassume medical control of the field EMS personnel at the scene.

(5) A paramedic tactical rescue may only function at the invitation of the local or state public safety authority. When called upon for assistance, it must immediately notify the local ground ambulance licensee to coordinate patient transportation.

R426-15-500. Pilot Projects.

(1) A person who proposes to undertake a research or study project which requires waiver of any rule must have a project director who is a physician licensed to practice medicine in Utah, and must submit a written proposal to the Department for presentation to the EMS Committee for recommendation.

(2) The proposal shall include the following:

(a) a project description that describes the:

(i) need for project;

(ii) project goal;

(iii) specific objectives;

(iv) approval by the agency off-line medical director;

(v) methodology for the project implementation;

(vi) geographical area involved by the proposed project;

(vii) specific rule or portion of rule to be waived;

(viii) proposed waiver language; and

(ix) evaluation methodology.

(b) a list of the EMS providers and hospitals participating in the project;

(c) a signed statement of endorsement from the participating hospital medical directors and administrators, the director of each participating paramedic and ambulance licensee, other project participants, and other parties who may be significantly affected.

(d) if the pilot project requires the use of additional skills, a description of the skills to be utilized by the field EMS personnel and provision for training and supervising the field EMS personnel who are to utilize these skills, including the names of the field EMS personnel.

(e) the name and signature of the project director attesting to his support and approval of the project proposal.

(3) If the pilot project involves human subjects research, the applicant must also obtain Department Institutional Review Board approval.

(4) The Department or Committee, as appropriate, may require the applicant to meet additional conditions as it considers necessary or helpful to the success of the project, integrity of the EMS system, and safety to the public.

(5) The Department or Committee, as appropriate, may initially grant project approval for one year. The Department or Committee, as appropriate, may grant approval for continuation beyond the initial year based on the achievement and satisfactory progress as evidenced in written progress reports to be submitted to the Department at least 90 days prior to the end of the approved period. A pilot project may not exceed three years;

(6) The Department or Committee, as appropriate, may only waive a rule if:

(a) the applicant has met the requirements of this section;

(b) the waiver is not inconsistent with statutory requirements;

(c) there is not already another pilot project being conducted on the same subject; and

(d) it finds that the pilot project has the potential to improve pre-hospital medical care.

(7) Approval of a project allows the field EMS personnel listed in the proposal to exercise the specified skills of the participants in the project. The project director shall submit the names of field EMS personnel not initially approved to the Department.

(8) The Department or Committee, as appropriate, may rescind approval for the project at any time if:

(a) those implementing the project fail to follow the protocols and conditions outlined for the project;

(b) it determines that the waiver is detrimental to public health; or

(c) it determines that the project's risks outweigh the benefits that have been achieved.

(9) The Department or Committee, as appropriate, shall allow the EMS provider involved in the study to appear before the Department or Committee, as appropriate, to explain and express its views before determining to rescind the waiver for the project.

(10) At least six months prior to the planned completion of the project, the medical director shall submit to the Department a report with the preliminary findings of the project and any recommendations for change in the project requirements;

R426-15-600. Confidentiality of Patient Information.

Licensees, designees, and EMS certified individuals shall not disclose patient information except as necessary for patient care or as allowed by statute or rule.

R426-15-700. Penalties.

As required by Subsection 63-46a-3(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

February 1, 2005

Notice of Continuation October 1, 2004

26-8a

**R432. Health, Health Systems Improvement, Licensing.
R432-7. Specialty Hospital - Psychiatric Hospital
Construction.**

R432-7-1. Legal Authority.

This rule is promulgated pursuant to Title 26, Chapter 21.

R432-7-2. Purpose.

The purpose of this rule is to establish construction standards for a specialty hospital for psychiatric services.

R432-7-3. General Design Requirements.

R432-4-1 through R432-4-22 apply to this rule with the following modifications.

R432-7-4. General Construction, Ancillary Support Facilities.

R432-4-23 (2) through (19) applies with the following modifications:

(1) Leaf width for patient room doors and doors to patient treatment rooms shall be a minimum of three feet.

(2) Corridors in patient use areas shall be a minimum of six feet wide.

(3) Grab Bars. Where grab bars are provided, the space between the bar and the wall shall be filled. Bars, including those which are part of such fixtures as soap dishes, shall be sufficiently anchored to sustain a concentrated load of 250 pounds. Grab bars shall meet the requirements of ADAAG.

(4) Emergency Electrical Service. An on-site emergency generator shall be provided connecting the following services:

(a) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;

(b) critical branch, as defined in 517-33 of the National Electric Code NFPA 70;

(c) equipment system, as defined in 517-34 of the National Electric Code NFPA 70;

(d) telephone;

(e) nurse call;

(f) heating equipment necessary to provide heating space to house all patients under emergency conditions;

(g) one duplex convenience outlet in each patient bedroom;

(h) one duplex convenience outlet at each nurses station; and

(i) duplex convenience outlets in the emergency heated part at a ratio of one for each ten patients.

(5) Nurse Call System. A nurse call system is optional. If installed, provisions shall be made for the easy removal or covering of call buttons.

(6) X-ray Equipment. If installed, fixed and mobile x-ray equipment shall conform to Articles 517 and 660 of NFPA 70.

(7) Security glazing. Security glazing and other security features shall be used at all windows of the nursing unit and other patient activity and treatment areas to reduce the possibility of patient injury or escape.

R432-7-5. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and Section 11 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, including Appendix A, 2001 edition (Guidelines) shall be met except as modified in this rule. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines.

(2) Patient Rooms.

(a) At least two single bed rooms with a private toilet room shall be provided for each nursing unit.

(b) Minimum clear dimensions of closets in patient rooms shall be 22 inches deep and 36 inches wide. The clothes rod shall be of the breakaway type.

(3) The Service Area, Guidelines Section 11.2.B, is

modified as follows:

(a) Each bathtub or shower shall be in an individual room or enclosure sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.

(b) At least one shower in central bathing facilities shall be designed in accordance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for use by a person with a wheelchair.

(c) A toilet room with direct access from the bathing area, shall be provided at each central bathing area.

(d) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from outside in case of an emergency.

(e) A handwashing fixture shall be provided in each toilet room.

(f) At least one patient toilet room in each nursing unit shall contain a shower or tub in addition to the toilet and lavatory. Fixtures shall be wheelchair accessible with wheelchair turning space within the room.

(g) Separate activity areas shall be provided for pediatric and adolescent nursing units.

(4) Child Psychiatric Unit, Guidelines Section 11.3, is modified as follows:

(a) Pediatric and adolescent nursing units shall be physically separated from adult nursing units.

(b) Examination and treatment rooms shall be provided for pediatric and adolescent patients separate from adult rooms.

(i) Each room shall provide a minimum of 100 square feet of usable space exclusive of fixed cabinets, fixtures, and equipment.

(ii) Each room shall contain a work counter, storage facilities, and lavatory equipped for handwashing.

(5) In addition to the service area requirements, individual rooms or a multipurpose room shall be provided for dining, education, and recreation.

(a) Insulation, isolation, and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of these multipurpose rooms.

(b) Service rooms may be shared by more than one pediatric or adolescent nursing unit, but shall not be shared with adult nursing units.

(6) A patient toilet room, in addition to those serving bed areas, shall be conveniently accessible from multipurpose rooms.

(7) Storage closets or cabinets for toys, educational, and recreational equipment shall be provided.

(8) Linen services shall comply with R432-4-24(3).

R432-7-6. Exclusions to the Guidelines.

The following sections of the Guidelines do not apply:

(1) Linen services, section 11.16.

(2) Parking, Subsection 11.1.C.

R432-7-7. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities

December 10, 2002

Notice of Continuation January 28, 2005

26-21-5

26-21-2.1

26-21-20

R432. Health, Health Systems Improvement, Licensing.
R432-8. Specialty Hospital - Chemical Dependency/Substance Abuse Construction.

R432-8-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-8-2. Purpose.

This rule applies to a hospital that chooses to be licensed as a specialty hospital and which has as its major single service the treatment of patients with chemical dependency or substance abuse. The rule identifies the construction standards for a specialty hospital, if the hospital chooses to have a dual major service, e.g., chemical dependency or substance and psychiatric care, then both of the appropriate specialty hospital construction rules apply.

R432-8-3. General Design Requirements.

See R432-4-1 through R432-4-22.

R432-8-4. General Construction, Ancillary Support Facilities.

R432-4-23 applies with the following modifications:

- (1) Corridors. Corridors in patient use areas shall be a minimum six feet wide.
- (2) Door leaf width for patient room doors and doors to patient treatment rooms shall be a minimum three feet.
- (3) Ceiling finishes. Ceiling construction in patient and seclusion rooms shall be monolithic.
- (4) Bed pan flushing devices are optional.
- (5) Windows, in rooms intended for 24-hour occupancy, shall be operable.
 - (6) Emergency Electrical Service.
 - (a) An on-site emergency generator shall be provided.
 - (b) The following services shall be connected to the emergency generator:
 - (i) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;
 - (ii) critical branch, as defined in 517-33 of the National Electric Code NFPA 70;
 - (iii) equipment system, as defined in 517-34 of the National Electric Code NFPA 70;
 - (iv) telephone;
 - (v) nurse call;
 - (vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;
 - (vii) one duplex convenience outlet in each patient bedroom;
 - (viii) one duplex convenience outlet at each nurse station;
 - (ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients.
 - (6) Nurse Call System.
 - (a) A nurse call system is optional.
 - (b) If a nurse call system is installed, provisions shall be made for the easy removal or covering of call buttons.

R432-8-5. General Construction, Patient Service Facilities.

(1) The requirements of R432-4-24 and the requirements of Chapter 7 including Appendix A of the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines. Swing beds must meet Sections 7 and 8 of the Guidelines.

(2) The environment of the nursing unit shall give a feeling of openness with emphasis on natural light and exterior views.

- (a) Interior finishes, lighting, and furnishings shall suggest a residential rather than an institutional setting.
- (b) Security and safety devices shall be presented in a manner which will not attract or challenge tampering by

patients.

- (3) Patient rooms.
 - (a) At least two single-bed rooms, with private toilet rooms, shall be provided for each nursing unit.
 - (b) Minimum patient room areas, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, shall be 100 square feet in single-bed rooms and 80 square feet per bed in multiple-bed rooms. The areas listed are minimum and do not prohibit larger rooms.
 - (c) Patient rooms shall include a wardrobe, closet, or locker, having minimum clear dimensions of 22 inches deep by 36 inches wide, suitable for hanging full-length garments. A break-away clothes rod and adjustable shelf shall be provided.
 - (d) Visual privacy is not required in all multiple-bed rooms, however privacy curtains shall be provided in five percent of multiple-bed rooms for use in treating detoxification patients.
 - (4) Laundry facilities shall be available to patients, including an automatic washer and dryer.
 - (5) Bathing facilities shall be provided in each nursing unit at a ratio of one bathing facility for each six beds not otherwise served by bathing facilities within individual patient rooms.
 - (a) Each bathtub or shower shall be in an individual room or enclosure adequately sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.
 - (b) At least one shower in central bathing facilities shall be designed in accordance with ADAAG for use by a wheelchair patient.
 - (6) A toilet room with direct access from the bathing area shall be provided at each central bathing area.
 - (a) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.
 - (b) A handwashing fixture shall be provided for each toilet in each toilet room.
 - (c) At least one patient toilet room in each nursing unit shall contain a shower or tub in addition to the toilet and lavatory. Fixtures shall be wheel chair accessible.
 - (7) There shall be at least one seclusion room for each 24 beds, or a fraction thereof, located for direct nursing staff supervision or equipped with a closed circuit television system with a monitor at the nursing station.
 - (a) Each seclusion room shall be designed for occupancy by one patient. The room shall have an area of at least 60 square feet and shall be constructed to prevent patient hiding, escape, injury, or suicide.
 - (b) If a facility has more than one nursing unit, the number of seclusion rooms shall be a function of the total number of beds in the facility.
 - (c) Seclusion rooms may be grouped in a common area.
 - (d) Special fixtures and hardware for electrical circuits shall be used to provide safety for the occupant.
 - (e) Doors shall be 44 inches wide and shall permit staff observation of the patient while providing patient privacy.
 - (f) Seclusion rooms shall be accessed through an anteroom or vestibule which also provides direct access to toilet rooms. The toilet and anteroom shall be large enough to safely manage the patient.
 - (g) Seclusion rooms including floor, walls, ceiling, and all openings, shall be protected with not less than one-hour-rated construction.

R432-8-6. Additional Specific Category Requirements.

(1) Dining, Recreation and Day Space. The facility layout shall include a minimum total inpatient space for dining, recreation, and day use computed on the basis of 30 square feet per bed for all beds in excess of 100.

- (a) The facility shall include a minimum of 200 square feet

for outpatients and visitors when dining is part of a day care program.

(b) If dining is not part of a day care program, the facility shall provide a minimum of 100 square feet of additional outpatient day space.

(c) Enclosed storage space for recreation equipment and supplies shall be provided in addition to the requirements of day use.

(2) Recreation and Group Therapy Space. At least two separate social areas, one designed for noisy activities and one designed for quiet activities, shall be provided as follows:

(a) At least 120 square feet shall be provided for each area.

(b) The combined area of the two areas shall be at least 40 square feet per patient.

(c) Activity areas may be utilized for dining activities and may serve more than one adult nursing unit.

(d) Activity areas shall be provided for pediatric and adolescent nursing units which are separate from adult areas.

(e) Space for group therapy shall be provided and activity spaces may be used for group therapy activities.

(3) Examination and treatment rooms shall be provided except when all patient rooms are single-bed rooms.

(a) An examination and treatment room may be shared by multiple nursing units.

(b) If provided, the room shall have a minimum floor area of 110 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum allowable floor dimension shall be ten feet.

(d) The room shall contain a lavatory or sink equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.

(4) A consultation room shall be provided.

(a) Rooms shall have a minimum floor space of 100 square feet, and be provided at a room-to-bed ratio of one consultation room for each 12 beds.

(b) They shall be designed for acoustical and visual privacy and constructed using wall construction assemblies with a minimum STC rating of 50.

(c) They shall provide appropriate space for evaluation of patient needs and progress, including work areas for evaluators and work space for patients.

(5) A multipurpose room for staff and patient conferences, education, demonstrations, and consultation, shall be provided.

(a) It shall be separate from required activity areas defined in R432-8-6(2).

(b) If provided in the administration area, it may be utilized for this requirement if it is conveniently accessible from a patient-use corridor.

(6) If child education is provided through facility-based programs, a room shall be provided in the adolescent unit for this purpose. The room shall contain at least 20 square feet per pediatric and adolescent bed, but not less than 250 square feet. Multiple use rooms may be used, but must be available for educational programs on a first priority basis.

(7) Pediatric and adolescent nursing units shall be physically separated from adult nursing units and examination and treatment rooms. In addition to the service requirements of R432-8-7, individual rooms or a multipurpose room shall be provided for dining, education, and recreation. Insulation, isolation, and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of these multipurpose rooms. Service rooms may be shared by more than one pediatric or adolescent nursing unit, but shall not be shared with adult nursing units.

(a) A patient toilet room, in addition to those serving bed areas, shall be conveniently accessible from multipurpose rooms.

(b) Storage closets or cabinets for toys, educational, and

recreational equipment shall be provided.

R432-8-7. Exclusions From the Standard.

The following sections of the Guidelines do not apply:

- (1) Parking, Section 7.1.D, Subsection 7.2.A4, and 7.2.A.
- (2) Infectious Isolation Rooms, Section 7.2.c.
- (3) Protective Isolation Rooms, Section 7.2.D.
- (4) Seclusion Rooms, Section 7.2.E.
- (5) Critical Care Units, Section 7.3.
- (6) Newborn Nurseries, Section 7.4.
- (7) Pediatric and Adolescent Unit, Section 7.5.
- (8) Psychiatric Nursing Unit, Section 7.6.
- (9) Surgical Suite, Section 7.7.
- (10) Obstetrical Suite, Section 7.8.
- (11) Emergency Services, Section 7.9.
- (12) Imaging Suite, Section 7.10.
- (13) Nuclear Medicine, Section 7.11.
- (14) Laboratory Services, Section 7.12.
- (15) Renal Dialysis Unit, Section 7.14.
- (16) Rehabilitation Therapy Department, Section 7.13.
- (17) Respiratory Therapy Services, Section 7.15.
- (18) Morgue, Section 7.16.
- (19) Pharmacy, Section 7.17.
- (20) Linen Services, Section 7.23.

R432-8-8. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

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26-21-20

**R432. Health, Health Systems Improvement, Licensing.
R432-9. Specialty Hospital - Rehabilitation Construction
Rule.**

R432-9-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-9-2. Purpose.

The purpose of this rule is to promote the public health and welfare through the establishment of construction standards for rehabilitation hospitals.

R432-9-3. General Design Requirements.

R432-4-1 through 22 apply to this rule.

**R432-9-4. General Construction Ancillary Support
Facilities.**

R432-4-23 applies with the following modifications:

(1) Corridors in patient use areas shall be a minimum eight feet wide.

(2) Handrails shall comply with the Americans with Disabilities Act Accessibility Guidelines and located on both sides of hallways and corridors used by patients.

(a) The top of the rail shall be 34-38 inches above the floor, except for areas serving children and other special care areas.

(b) Ends of handrails and grab bars shall be constructed to prevent persons from snagging their clothes.

(3) Standards for the Disabled. All fixtures in all toilet and bath rooms, except those in the activities for daily living unit, shall be wheelchair accessible with wheelchair turning space within the room.

(4) Plumbing.

(a) Oxygen and suction systems shall be installed to serve 25 percent of all patient beds.

(b) Installation shall be in accordance with R432-4 and NFPA 99.

(c) Systems serving additional patient beds are optional.

(5) Emergency Electrical Service.

(a) An on-site emergency generator shall be provided.

(b) The following services shall be connected to the emergency generator:

(i) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;

(ii) critical branch, as defined in 517-33 of the National Electrical Code NFPA 70;

(iii) equipment system, as defined in section 517-34 of the National Electric Code NFPA 70;

(iv) telephone;

(v) nurse call;

(vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(vii) one duplex convenience outlet in each patient room;

(viii) one duplex convenience outlet at each nurse station;

(ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients.

R432-9-5. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and the requirements of Section 10 Rehabilitation Facilities and Appendix A of Guidelines for Design and Construction of Hospital and Health Care Facilities (Guidelines) 2001 edition shall be met except as modified in this rule. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines.

(2) Vocational Services Unit, Guidelines section 10.5 is modified to allow psychological services, social services, and vocational services to share the same office space when the licensee provides evidence in the functional program that the needs of the population served are met in the proposed space

arrangement.

(3) Nursing Unit, Section 10.15 is modified as follows:

(a) Fixtures in patient rooms shall be wheelchair accessible.

(b) Patient rooms shall contain space for wheelchair storage separate from normal traffic flow areas.

(c) Toilet room doors shall swing out from the toilet room or shall be double acting.

(d) Patient rooms shall provide each patient a wardrobe, closet, or locker, having minimum clear dimensions of 22 inches by 36 inches, suitable for hanging full-length garments. A clothes rod and adjustable shelf shall be provided.

(4) A clean workroom or clean holding room shall be provided for preparing patient care items which shall contain a counter, handwashing facilities, and storage facilities. The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(5) A soiled workroom shall be provided containing a clinical sink, a sink equipped for handwashing, a work counter, waste receptacles, and a linen receptacle. The work counter and handwashing facilities may be omitted in rooms used only for storage and holding.

(6) In addition to Guideline Section 10.15.B11, the medicine preparation room or unit shall be under visual control of the nursing staff and have the following:

(a) a minimum area of 50 square feet,

(b) a locking mechanism to prohibit unauthorized access.

(7) Each nursing unit shall have equipment to provide ice for patient treatment and nourishment.

(a) Ice-making equipment may be located in the clean workroom or at the nourishment station if access is controlled by staff.

(b) Ice intended for human consumption shall be dispensed by self-dispensing ice makers.

(8) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

R432-9-6. Exclusions from the Guidelines.

The following sections of the Guidelines do not apply:

(1) Waste Processing Services, Subsection 10.11C.

(2) Linen service, Section 10.12.

(3) Patient Rooms section 10.15A.7.

R432-9-7. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

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**R432. Health, Health Systems Improvement, Licensing.
R432-10. Specialty Hospital - Long-Term Acute Care
Construction Rule.**

R432-10-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-10-2. Purpose.

The purpose of this rule is to establish construction standards for hospitals that provide services for the diagnosis, treatment or care of persons needing medical services and care in excess of services usually provided in a general acute hospital or skilled nursing home for chronic or long-term illness, injury or infirmity.

R432-10-3. General Design Requirements.

(1) Refer to R432-4-1 through R432-4-23.

(2) All fixtures in public and resident toilet and bathrooms shall be wheelchair accessible with wheelchair turning space within the room.

R432-10-4. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and the requirements of Sections 7 and 8 including Appendix A, of the Guidelines for Design and Construction of Hospital and Health Care Facilities 2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(2) The maximum number of beds on each nursing unit shall be 60.

(a) The minimum number of beds in a nursing unit shall be four.

(b) Rooms and spaces comprising the nursing unit shall be contiguous.

(3) At least two single-bed rooms, with a private toilet room containing a toilet, lavatory, and bathing facility, shall be provided for each nursing unit.

(a) The minimum patient room area shall be 120 feet.

(b) In addition to the lavatory in the toilet room, in new construction a lavatory or handwashing sink shall be provided in the patient room.

(c) Ventilation shall be in accordance with Table 6 of Guidelines with all air exhausted to the outside.

(4) The nurses' station shall have handwashing facilities located near the nurses' station and the drug distribution station. The nurses' toilet room, located in the unit, may also serve as a public toilet room.

(5) A nurse call system is not required in facilities that care for developmentally disabled or mentally retarded persons. With the prior approval of the Department, facilities which serve patients who pose a danger to themselves or others may modify the system to alleviate hazards to patients.

(6) Patient rooms shall include a wardrobe, closet, or locker having minimum clear dimensions of 22 inches deep by 36 inches wide, suitable for hanging full length garments.

(7) A clean workroom or clean holding room with a minimum area of 80 square feet for preparing patient care items which shall contain a counter, handwashing facilities, and storage facilities.

(a) The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(b) A soiled workroom with a minimum area of 80 square feet which shall contain a clinical sink, a sink equipped for handwashing, a work counter, waste receptacles and a linen receptacle.

(c) Handwashing sinks and work counters may be omitted in rooms used only for temporary holding of soiled, bagged materials.

(8) If a medication dispensing unit is used it shall be under visual control of staff, including double locked storage for controlled drugs.

(9) Clean Linen Storage.

(a) If a closed cart system is used it shall be stored in a room with a self closing door.

(b) Storage of a closed cart in an alcove in a corridor is prohibited.

(10) Each nursing unit shall have equipment to provide ice for patient treatment and nourishment.

(a) Ice making equipment may be located in the clean workroom or at the nourishment station if access is controlled by staff.

(b) Ice intended for human consumption shall be dispensed by self-dispensing ice makers.

(11) At least one room for toilet training, accessible from the nursing corridor, shall be provided on each floor containing a nursing unit.

(a) All fixtures in this room shall comply with the Americans with Disabilities Act Accessibility Guidelines.

(b) A toilet room, with direct access from the bathing area, shall be provided at each central bathing area.

(c) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.

(d) A handwashing fixture shall be provided for each toilet in each toilet room.

(12) Storage. There shall be an equipment storage room with a minimum area of 120 square feet for portable storage.

(13) Resident Support Areas Shall Include the Following:
(a) Occupational Therapy may be counted in the required space of Guidelines section 8.3, Resident Support Area.

(b) Physical Therapy, personal care room and public waiting lobbies may not be included in the calculation of space of Guidelines section 8.3, Resident Support Area.

(c) Storage space for recreation equipment and supplies shall be provided and secured for safety.

(d) There shall be a general purpose room with a minimum area of 100 square feet equipped with table, and comfortable chairs.

(e) A minimum area of ten square feet per bed shall be provided for outdoor recreation. Recreation areas shall be enclosed by a secure fence.

(14) An examination and treatment Room shall be provided except when all patient rooms are single-bed rooms.

(a) The examination and treatment room may be shared by multiple nursing units.

(b) The room shall have a minimum floor area of 100 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum allowable room dimension shall be ten feet.

(d) The room shall contain a lavatory or sink equipped for handwashing; work counter; storage facilities; and desk, counter, or shelf space for writing.

(15) A room shall be arranged to permit evaluation of patient needs and progress.

(a) The room shall include a desk and work area for the evaluators, writing and work space for patients, and storage for supplies.

(b) If psychological services are provided, then the unit shall contain an office and work space for testing, evaluation, and counseling.

(c) If social services are provided, then the unit shall contain office space for private interviewing and counseling.

(d) If vocational services are provided, then the unit shall contain office and work space for vocational training, counseling, and placement.

(e) Evaluation, psychological services, social services, and

vocational services may share the same office space when the owner provides evidence in the functional program that the needs of the population served are met in the proposed space arrangement.

(16) Pediatric and Adolescent Unit.

(a) Pediatric and adolescent nursing units shall comply with the spatial standards in section 7.5 of the Guidelines.

(b) There shall be an area for hygiene, toileting, sleeping, and personal care for parents if the program allows parents to remain with young children.

(c) Service areas in the pediatric and adolescent nursing unit shall conform to the standards of section 7.5.C. of the Guidelines and the following:

(i) Multipurpose or individual rooms shall be provided in the nursing unit for dining, education, and recreation.

(ii) A minimum of 20 square feet per bed shall be provided.

(iii) Installation, isolation and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of multipurpose rooms.

(iv) Service rooms may be shared by more than one pediatric or adolescent nursing unit, but may not be shared with adult patient units.

(v) A patient toilet room, in addition to those serving bed areas, shall be conveniently located to each multipurpose room and to each central bathing facility.

(vi) Storage closets or cabinets for toys, educational, and recreational equipment shall be provided.

(d) At least one single-bed isolation room shall be provided in each pediatric unit. Each isolation room shall comply with the following:

(i) Room entry shall be through an adjacent work area which provides for aseptic control, including facilities separate from patient areas for handwashing, gowning, and storage of clean and soiled materials. The work area entry may be a separate, enclosed anteroom.

(ii) A separate, enclosed anteroom for an isolation room is not required but, when provided, shall include a viewing panel for staff observation of the patient from the anteroom.

(iii) One anteroom may serve several isolation rooms.

(iv) Toilet, bathing, and handwashing facilities shall be arranged to permit access from the bed area without entering or passing through the work area of the vestibule or anteroom.

(17) Rehabilitation therapy, Physical Therapy and Occupational Therapy areas shall include:

(a) Waiting areas to accommodate patients in wheelchairs, including room for turning wheelchairs.

(b) Storage space, with separate storage rooms for clean and soiled linen.

R432-10-5. General Construction.

(1) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

(2) Grab bars and handrails shall comply with ADAAG and shall be installed in all toilet rooms.

(a) Handrails shall be provided on both sides of corridors used by patients.

(b) The top of the rail shall be 32 inches above the floor, except for special care areas.

(c) Ends of the handrails and grab bars shall be constructed to prevent persons from snagging their clothes.

(3) Sound control shall be maintained as referred to in Table 1 in R432-5-12(5).

(4) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers may not be used.

(5) Signs. The following signs shall comply with ANSI A117.1 and be located in corridors:

- (a) general circulation direction signs in corridors.
- (b) identification sign or number at each door.
- (c) emergency evacuation directional signs.

R432-10-6. Construction Features.

(1) Mechanical tests shall be conducted prior to the final Department construction inspection. Written test results shall be retained in facility maintenance files and available for Department review.

(2) Any insulation containing any asbestos is prohibited.

(3) The heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by patients.

(a) The cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by patients.

(b) Furnace and boiler rooms shall be provided with sufficient outdoor air to maintain equipment combustion rates and to limit work station temperatures to a temperature not to exceed 90 degrees F. When ambient outside air temperature is higher, maximum temperature may be 97 degrees F.

(c) A relative humidity between 30 percent and 60 percent shall be provided in all patient areas.

(d) Evaporative coolers may only be used in kitchen hood systems that provide 100% outside air.

(e) Isolation rooms may be ventilated by reheat induction units in which only the primary air supplied from a central system passes through the reheat unit. No air from the isolation room may be recirculated into the building system.

(f) Supply and return systems shall be ducted. Common returns using corridors or attic spaces as return plenums are prohibited.

(g) The bottom of ventilation supply and return opening shall be at least three inches above the floor.

(4) Filtration shall be provided when mechanically circulated outside air is used see section 8.31.D5, of the Guidelines. All areas for inpatient care, treatment, or diagnosis, and those areas providing direct service or clean supplies shall have a minimum of one filter bed with an efficiency of 80.

(5) Fans and dampers shall be interconnected so that activation of dampers will automatically shut down fans.

(a) Smoke dampers shall be equipped with remote control reset devices.

(b) Manual reopening is permitted where dampers are located for convenient access.

(6) All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat actuated fan controls. Cleanout openings shall be provided every 20 feet in horizontal sections of the duct systems serving these hoods.

(7) Gravity exhaust may be used, where conditions permit, for boiler rooms, central storage, and other non-patient areas.

(8) Handwashing facilities shall comply with section 8.11.E1 of the Guidelines and include the following:

(a) Handwashing facilities shall be arranged to provide sufficient clearance for single-lever operating handles.

(b) Handwashing facilities shall be installed to permit use by persons in wheelchairs.

(c) Fixtures in patient use areas shall be equipped with cross or tee handles or single lever operating handles.

(9) Dishwashers, disposers and appliances shall be National Sanitation Foundation, NSF, approved and have the NSF seal affixed.

(10) Kitchen grease traps shall be located and arranged to permit easy access without the need to enter the food preparation or storage area.

(11) Hot water systems. Hot water provided in patient tubs, showers, whirlpools, and handwashing facilities shall be regulated by thermostatically controlled automatic mixing valves. Mixing valves may be installed on the recirculating system or on individual inlets to appliances.

(12) Drainage Systems. Building sewers shall discharge

into community sewerage except, where such a system is not available, the facility shall treat its sewage in accordance with local requirements and Department of Environmental Quality requirements.

(13) Piping and Valve systems. All piping and valves in all systems, except control line tubing, shall be labeled to show content of line and direction of flow. Labels shall be permanent type, either metal or paint, and shall be clearly visible to maintenance personnel.

(14) Oxygen and suction systems shall be installed in accordance with the requirements of section 7.31.E5 of the Guidelines and Table 7.5 of the Guidelines.

(15) Electric materials shall be new and listed as complying with standards of Underwriters Laboratories, Inc., or other equivalent nationally recognized standards. The owner shall provide written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.

(16) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with at least the mid range requirements shown in Tables 1A and 1B of Illuminating Engineering Society of North America IESNA, publication RP-29-95, Lighting for Health Care Facilities, 1995 edition. Automatic Emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(17) Receptacles shall comply with section 8.32.A4c of the Guidelines and shall include:

(a) Each examination and work table shall have access to minimum of two duplex outlets.

(b) Receptacle cover plates on electrical receptacles supplied for the emergency system shall be red.

(18) Emergency Electrical Service shall comply with section 7.32H of the Guidelines and shall include:

(a) An on-site emergency generator shall be provided.

(b) The following services shall be connected to the emergency generator:

(i) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;

(ii) critical branch as defined in 517-33 of the National Electric Code NFPA 70;

(iii) equipment system, as defined in 517-34 of the National Electric Code NFPA 70;

(iv) telephone;

(v) nurse call;

(vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(vii) one duplex convenience outlet in each patient room;

(viii) one duplex convenience outlet at each nurse station;

(ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients.

(c) fuel storage capacity shall permit continuous operation for 48 hours.

(14) Linen Services, Section 8.11.

(15) Mechanical Standards, Section 8.31.

(16) Electrical Standards, Section 8.32.

(17) Bathing facilities, Section 8.2.C.11.

(18) Clean utility rooms, Section 8.2.C5.

(19) Soiled Utility rooms, Section 8.2.C6.

(20) Windows, Section 8.2.B3.

R432-10-8. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

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R432-10-7. Excluded Section of the Guidelines.

The following sections of the Guidelines do not apply:

(1) Parking, Section 7.1.D.

(2) Nursing Unit, Section 7.2.

(3) Critical Care Unit, Section 7.3.

(4) Newborn Nurseries, Section 7.4.

(5) Psychiatric Nursing Unit, Section 7.6.

(6) Surgical Suite, Section 7.7.

(7) Obstetrical Facilities, Section 7.8.

(8) Emergency Services, Section 7.9.

(9) Imaging Suite, Section 7.10.

(10) Nuclear Medicine, Section 7.11.

(11) Morgue, Section 7.15.

(12) Linen Services, Section 7.23.

(13) Parking, Section 8.1.F.

R432. Health, Health Systems Improvement, Licensing.**R432-11. Orthopedic Hospital Construction.****R432-11-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

R432-11-2. Purpose.

The purpose of this rule is to establish construction standards for a specialty hospital for orthopedic services.

R432-11-3. General Design Requirements.

(1) See R432-4-1 through R432-4-22.

(2) All fixtures in resident toilet and bathrooms shall be wheelchair accessible with wheelchair turning space within the room.

R432-11-4. General Construction.

See R432-4-23 with the following modifications:

(1) Corridors in patient use areas shall be a minimum eight feet wide.

(2) Handrails shall be provided on both sides of corridors and hallways used by patients and meet the Americans with Disabilities Act Accessibility Guidelines requirements. The top of the rail shall be 34 inches above the floor except for areas serving children and other special care areas.

(3) Plumbing, including medical gas and suction systems are required.

(4) An emergency electrical service is required. An on-site emergency generator shall be provided and the following services shall be connected to the emergency generator:

(a) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;

(b) critical branch as defined in 517-33 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;

(c) equipment system, as defined in 517-34 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;

(d) telephone;

(e) nurse call;

(f) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(g) one duplex convenience outlet in each patient room;

(h) one duplex convenience outlet at each nurse station;

(i) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients;

(j) fuel storage capacity shall permit continuous operation for at least 48 hours.

(5) If installed, fixed and mobile X-ray equipment shall comply with Articles 517 and 660 of NFPA 70, which is adopted and incorporated by reference.

R432-11-5. General Construction. Patient Service Facilities.

(1) Requirements of R432-4-24 and the requirements of Section 7 including Appendix A of Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(2) Nursing Units shall meet the following:

(a) At least two single-bed rooms, with private toilet rooms, shall be provided for each nursing unit.

(b) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, shall be 140 square feet in single-bed rooms and 125 square feet per bed in multiple-bed rooms. The listed areas are minimum and do not prohibit larger rooms.

(3) Imaging Suites. Imaging facilities for diagnostic procedures, include the following: radiology, mammography,

computerized scanning, ultrasound and other imaging techniques.

(a) Imaging facilities may be provided within the facility or through contractual arrangement with a qualified radiology service or nearby hospital.

(b) If imaging facilities are provided in-house, they shall meet the requirements for an imaging suite defined in Guidelines for Design and Construction of Hospital and Health Care Facilities, section 7.10.

(4) Laboratory Services.

(a) Laboratory space and equipment shall be provided in-house for testing blood counts, urinalysis, blood glucose, electrolytes, blood urea nitrogen (BUN), and for the collection, processing, and storage of specimens.

(b) In lieu of providing laboratory services in-house, contractual arrangements with a Department-approved laboratory shall be provided. Even when contractual services are arranged, the facility shall maintain space and equipment to perform the tests listed in R432-105-5(7)(a).

(5) Pharmacy Guidelines.

(a) The size and type of services provided in the pharmacy shall depend on the drug distribution system chosen and whether the facility proposes to provide, purchase, or share pharmacy services. A description of pharmacy services shall be provided in the functional program.

(b) There shall be a pharmacy room or suite, under the direct control of staff, which is located for convenient access and equipped with appropriate security features for controlled access.

(c) The room shall contain facilities for the dispensing, basic manufacturing, storage and administration of medications, and for handwashing.

(d) In lieu of providing pharmacy services in-house, contractual arrangements with a licensed pharmacy shall be provided. If contractual services are arranged, the facility shall maintain space and basic pharmacy equipment to prepare and dispense necessary medications in back-up or emergency situations.

(e) If additional pharmacy services are provided, facilities shall comply with requirements of Guidelines section 7.17.

(6) Linen Services shall comply with R432-4-24(3).

(7) Patient bathing facilities shall be provided in each nursing unit at a ratio of one bathing facility for each eight beds not otherwise served by bathing facilities within individual patient rooms.

(a) Each bathtub or shower shall be in an individual room or enclosure adequately sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.

(b) Showers in central bathing facilities shall have a floor area of at least four feet square, be curb free, and be designed for use by a wheelchair patient in accordance with ADAAG.

(c) At least one island-type bathtub shall be provided in each nursing unit.

(8) Toilet Facilities. A toilet room, with direct access from the bathing area shall be provided at each central bathing area.

(a) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.

(b) A handwashing fixture shall be provided for each toilet in each toilet room.

(c) Fixtures shall be wheelchair accessible.

(9) Patient Day Spaces.

(a) The facility shall include a minimum total inpatient space for dining, recreation, and day use computed on the basis of 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100.

(b) In addition to the required space defined for inpatients, the facility shall include a minimum of 200 square feet for

outpatient and visitors when dining is part of a day care program. If dining is not part of a day care program, the facility shall provide a minimum of 100 square feet of additional outpatient day space.

(c) Enclosed storage space for recreation equipment and supplies shall be provided in addition to the requirements of R432-105-4.

(10) Examination and Treatment Room. An examination and treatment room shall be provided except when all patient rooms are single-bed rooms.

(a) An examination and treatment room may be shared by multiple nursing units.

(b) When provided, the room shall have a minimum floor area of 120 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum floor dimension shall be ten feet.

(d) The room shall contain a lavatory or sink equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.

(11) Consultation Room. A consultation room, arranged to permit an evaluation of patient needs and progress, shall be provided. The room shall include a desk and work area for the evaluators, writing and work space for patients, and storage for supplies.

(12) Surgical Unit. If surgical services are offered, facilities shall be provided in accordance with the Guidelines.

R432-11-6. Excluded Guideline Sections.

The following sections of the Guidelines do not apply:

- (1) Parking, section 7.1.D.
- (2) Critical Care Unit, Section 7.3.
- (3) Newborn Nurseries, Section 7.4.
- (4) Psychiatric Nursing Unit, Section 7.6.
- (5) Obstetrical Facilities, Section 7.8.
- (6) Emergency Services, Section 7.9.
- (7) Nuclear Medicine, Section 7.11.
- (8) Morgue, Section 7.16.
- (9) Linen Services, Section 7.23.

R432-11-7. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities

December 10, 2002

Notice of Continuation January 28, 2005

26-21-5

26-21-2.1

26-21-20

**R432. Health, Health Systems Improvement, Licensing.
R432-12. Small Health Care Facility (Four to Sixteen Beds)
Construction Rule.**

R432-12-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-12-2. Purpose.

This rule defines construction standards for small health care facilities which are categorized as Level I, Level II, Level III, or Level IV according to the resident's ability or capability to exit a building unassisted in an emergency.

R432-12-3. General Design Requirements.

Refer to R432-4-1 through R432-4-23.

R432-12-4. General Construction Requirements.

(1) Table 1 identifies the levels of care and construction requirements which apply.

	LEVEL I	LEVEL II	LEVEL III	LEVEL IV
No. residents	1 plus	4-16	4-16	6-16
Types of Facilities	SNF ICF ICF/MR (17 plus) Mental Health Facility (17 plus)	ICF/MR Home for Aging Social Rehab. Health Care Nursing Mental Health Facility	ICF/MR Correction Home Mental Health Facility	ICF/MR Mental Health Facility Home for Aging Social Rehab.
Staff Availability or Coverage	24 hours/day	24 hours/day	24 hours/day	24 hours/day
Licensed Nursing Hours	16-24	0-16	0-16	0-16
Type of Service				
medical nursing	yes	yes	yes	yes
dietary	yes	yes	yes	yes
social svc	yes	yes	as required	as required
phy therapy	yes	as required	as required	as required
rec therapy	yes	as required	as required	as required
other therapy	yes	as required	as required	as required
Resident Capable of Self Preservation Unassisted	No, they are non-ambulatory non-mobile	No, they are non-ambulatory non-mobile	Yes, they are ambulatory mobile	Yes, they are ambulatory mobile
Resident Exit Ability in an Emergency	restricted, physical or mental disability and medical condition	restricted, physical or mental disability	restricted, chemical or physical restraints	not restricted
Accessible Rooms	100%	10% or 100% if Physical Rehab.	10%	10%
Construction Requirements code or regulation	NFPA 101 (1997)	NFPA 101 (1997)	NFPA 101 (1997)	Utah Fire Prevention

fire rating of const	12-1.3 1 hour	12-1.3 1 hour	12-1.3 1 hour	Board Rules R710-3; UBC appendix Chapter 3 No requirement
sprinkler	yes	yes	yes	consider res. mobility
smoke detector	yes	yes	yes	yes
manual fire alarm	yes	yes	yes	yes
above 3 systems interconnected	yes	yes	yes	no
corridor	8 feet	6 feet	5 feet	As required by UBC
resident room door width	44 inch	44 inch	36 inch	36 inch
nurse call system	yes	yes	optional	yes

(2) General Requirements.

(a) Level I facilities shall meet the Nursing Facility Construction standards in R432-5.

(b) Level II and III facilities shall meet the construction and design requirements identified in this section, unless specifically exempted.

(c) Level IV facilities shall meet the Assisted Living Facility Type I Construction standards in R432-6.

(d) Level I, II, III and IV facilities shall comply with the Americans with Disabilities Act Accessibility Guidelines.

(e) Level II and III facilities shall conform to the life safety code requirements of NFPA 101, Chapter 12 as specified in Sections 12.1.3, which is adopted and incorporated by reference.

(f) Level IV facilities shall conform to the fire safety provisions of R432-710-3.

R432-12-5. Common Areas.

There shall be a common room or rooms for dining, sitting, meeting, visiting, recreation, worship, and other activities that is of sufficient space or separation to promote and facilitate the activity without interfering with concurrent activities or functions.

(1) There shall be at least 30 square feet computed per license bed capacity but no less than a total of 225 square feet.

(2) There shall be sufficient space for necessary equipment and storage of recreational equipment and supplies.

R432-12-6. Resident Rooms.

(1) The maximum room capacity shall be two residents. Provisions shall be made for individual privacy.

(2) There shall be at least 100 square feet for a single-bed room and 160 square feet in shared rooms, exclusive of toilets and closets.

(a) Minor encroachments such as columns, lavatories, and door swings may be ignored in determining space requirements if function is not impaired.

(b) In a facility licensed prior to 1977, the Department may grant a variance, pursuant to R432-2-18, to allow 80 square feet per bed for a single-bed room and 60 square feet per bed for a multiple-bed room.

(3) In multiple-bed rooms there shall be enough clearance between beds to allow movement of beds, wheelchairs, and other equipment without disturbing residents.

(4) No room commonly used for other purposes shall be used as a sleeping room for any resident. This includes any hall, unfinished attic, garage, storage area, shed, or similar detached building.

(5) No bedroom may be used as a passageway to another room, bath, or toilet.

(6) Bedrooms shall open directly into a corridor or common living area, but not into a food-preparation area.

(7) Bedrooms shall not be located in a basement or on an upper floor unless residents have access to one exit from that level leading directly to the exterior at grade level.

(8) Each bedroom shall be provided with light and ventilation by means of an operable window which opens to the outside or to a court that opens to the sky. Where the window requires the use of tools or keys for operation, such devices shall be stored in a prominent location on each floor convenient for staff use.

(9) Each resident shall have a wardrobe, closet, or space suitable for hanging clothing and personal belongings with minimum inside dimensions of 22 inches deep by 36 inches wide by 72 inches tall. Space accommodations shall be provided within each resident's room. Facilities serving infants or children may substitute a chest of drawers for the closet.

R432-12-7. Toilet and Bathing Facilities.

Toilet rooms and bathrooms shall be mechanically exhausted, conveniently located, and accessible to, and usable by all persons accepted for care.

(1) There shall be one toilet and washbasin on each floor for each four occupants, including staff and live-in family. A facility licensed for eight beds or more shall have distinct and separate toilet and bathing facilities for live-in family and staff.

(2) There shall be at least one bathtub or shower for each six residents.

(a) In a multi-story building there shall be at least one bathtub or shower on each floor that has resident bedrooms.

(b) Each resident shall have access to at least one bathtub and one shower.

(c) There shall be at least one shower or bathtub which opens from a corridor designed for use by resident using a wheelchair with room for staff assistance that meets ADAAG standards.

(3) Each central shared bathroom shall have a toilet and washbasin.

(4) Toilet and bathing facilities may not open directly into food preparation areas.

(5) There shall be adequate provision for privacy and safety, including grab bars, in accordance with ADAAG, at each toilet, tub, and shower used by residents.

(6) All toilets, showers, and tub facilities shall have walls of impermeable, cleanable, and easily sanitized surfaces.

R432-12-8. Service Areas.

There shall be adequate space and equipment for the following services or functions. Except where the word "room" or "office" is used, service may be provided in a multi-purpose area.

(1) Administrator's office with space for private interviews, storage of files and records, and a public reception or information area.

(2) Telephone area for private use by residents or visitors.

(3) A control station with a well-lighted desk, and equipment for keeping records and supplies.

(4) Closets or compartments for the safekeeping of staff's personal items.

(5) Medication preparation and storage area, including locked drug cabinets, work counter, refrigerator, and sink with running water located near the control station.

(6) Clean linen storage area.

(7) Soiled workroom mechanically ventilated to the outside. In a Level II facility this room shall contain a clinical sink or equivalent flushing rim fixture, handwashing facilities, work counter, waste and soiled linen receptacle.

(8) Housekeeping room, which in large facilities over eight residents shall contain a service sink.

(9) Equipment room or separate building for mechanical and electrical equipment.

(10) Storage room for maintenance supplies.

(11) General storage area within the facility or in a separate building convenient for daily access with at least five square feet of storage per bed;

(12) Area outside the facility for sanitary storage and disposal of waste.

R432-12-9. Dietary Services.

Food service facilities and equipment shall comply with the Utah Department of Health Food Service Sanitation Regulations. According to the size of the facility and services offered, there shall be adequate space and equipment for the following:

(1) Food preparation;

(2) Handwashing located in the food preparation area;

(3) Serving and distributing resident meals;

(4) Dining space for residents, staff, and visitors;

(5) Dishwashing, receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to use areas;

(6) Storage, including cold storage and space for at least a seven-day supply of staple foods and a three-day supply of perishable foods, shall be maintained in the facility.

R432-12-10. Linen Services.

(1) Each facility shall have provisions for storage and processing of clean and soiled linen as required for resident care. Processing may be done within the facility, in a separate building on or off site, or in a commercial or shared laundry.

(2) The capacity of central storage shall be sufficient for four days operation or two normal deliveries, whichever is greater.

(3) Handwashing facilities shall be provided in each area where unbagged soiled linen is handled.

(4) Provisions shall be made to keep soiled linen separate from clean linen.

(5) Provision shall be made for storage of laundry supplies.

(6) Equipment shall be arranged to permit an orderly work flow and reduce cross traffic that may mingle clean and soiled operations.

(7) At least one washing machine and dryer, and ironing equipment shall be available for use by residents who wish to do their personal laundry.

R432-12-11. Nurse Call System.

A nurse call system is required in Level I, II and IV facilities. A nurse call system is optional in Level III facilities.

(1) Each resident's room shall be served by at least one calling station and each bed shall be provided with a call button including operating switch and cord from the wall station to each bed.

(2) Two call buttons serving adjacent beds may be served by one calling station.

(3) Calls shall activate a visible signal in the corridor at the resident's door and the control station.

(4) The system shall be designed so that a signal light activated at the resident's station will remain lighted until turned off at the resident's calling station.

(5) A system that provides two-way voice communication shall be equipped at each calling station with an indicator light

that remains lit as long as the voice circuit is operating.

R432-12-12. Rehabilitation Therapy.

A facility that offers on-site specialized rehabilitation services shall provide space and equipment necessary to meet the intent of the approved program. The following shall be available in the facility:

- (1) Supplies and equipment storage, including separate clean and soiled linen;
- (2) Convenient handwashing facilities;
- (3) Space and equipment to carry out specific types of therapy;
- (4) Provision for resident privacy;
- (5) Convenient access to a room that can be used to train and educate staff and residents;
- (6) Dressing rooms for residents.

R432-12-13. Doors and Windows.

(1) Doors to all rooms containing bathtubs, sitz baths, showers and water closets for resident use shall be equipped with hardware which may be secured for privacy yet permit emergency access from the outside without the use of keys.

(2) Each room, including all resident toilet rooms and bathing rooms that may be used by residents, staff, or employees confined to wheelchairs, shall have at least one door with a minimum clear width of 34 inches.

(3) Resident-room doors and exit doors shall be at least 36 inches wide, defined by the width of the door leaf.

(4) Thresholds and expansion-joint covers shall be flush with the floor surface to facilitate use of wheelchairs and carts and to prevent tripping.

(5) Every room intended for 24-hour occupancy shall have a window that opens to the building exterior or to a court that is open to the sky.

(6) Windows and outer doors shall have insect screens.

R432-12-14. Grab Bars and Handrails.

(1) Grab bars shall meet the requirements of ADAAG.

(2) In Level I and II facilities, there shall be handrails on both sides of all corridors normally used by residents. Handrail profiles shall be graspable in accordance with NFPA 101 Chapter 5, which is adopted and incorporated by reference and the Americans with Disabilities Act Accessibility Guidelines.

(3) Ends shall be returned to the wall or otherwise arranged to minimize potential for injury.

R432-12-15. Lavatories and Plumbing Fixtures.

(1) All lavatories used by residents shall be trimmed with valves, with cross, tee or single lever devices.

(2) Showers and tubs shall have slip-resistant surfaces.

(3) Lavatories shall be securely anchored to withstand a vertical load of not less than 250 pounds on the front of the fixture.

(4) A mirror shall be provided at each handwashing facility except as otherwise noted.

(a) The tops and bottoms of mirrors may be at levels for use by sitting and standing individuals, or additional mirrors may be provided for residents using a wheelchair.

(b) One separate full-length mirror in a single room may serve for wheelchair occupants in that room.

R432-12-16. Ceilings.

(1) Ceiling height in the facility shall be a minimum of eight feet with the following exceptions:

(a) Rooms containing ceiling-mounted equipment shall have adequate height for the proper functioning of that equipment.

(b) Ceilings in corridors, storage rooms, and toilet rooms shall be at least seven feet ten inches.

(c) Building components and suspended tracks, rails and pipes located in the path of normal traffic may not be less than seven feet above the floor.

(2) Where existing conditions make the above impractical, clearances shall be sufficient to avoid injury and at least six feet four inches above the floor.

R432-12-17. Heat and Noise Reduction.

(1) Rooms containing heat producing equipment such as a furnace, heater, washer, or dryer shall be insulated and ventilated to prevent floors of overhead occupied areas and adjacent walls from exceeding a temperature of 10 degrees Fahrenheit (6 degrees C) above the ambient room temperature of such occupied areas.

(2) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated may not be located directly over resident-bed areas unless special provisions are made to minimize such noise.

(3) Sound transmission limitations shall conform to Table 2.

TABLE 2
SOUND TRANSMISSION LIMITATIONS
IN LONG-TERM CARE FACILITIES

	AIRBORNE SOUND TRANSMISSIONS Class (STC)(a)	
	Partitions	Floors
Residents' room to residents' room	35	40
Public space to residents' room(b)	40	40
Service areas to residents' room(c)	45	45

(a) Sound transmission class (STC) shall be determined by tests in accordance with methods set forth in ASTM Standard E 90 and ASTM Standard E 413. Where partitions do not extend to the structure above, sound transmission through ceilings and composite STC performance must be considered.

(b) Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar space.

(c) Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above residents' rooms, offices, nurses' stations, and similarly occupied space shall be effectively isolated from the floor.

R432-12-18. Floor, Wall, and Ceiling Finishes.

(1) Floor materials shall be easily cleanable and appropriate for the location.

(a) Floors and floor joints in areas used for food preparation and food assembly shall be water-resistant, grease proof, and resistant to food acids.

(b) In all areas subject to frequent wet cleaning, floor materials may not be physically affected by germicidal cleaning solutions.

(c) Floors that are subject to traffic while wet, (such as shower and bath areas, kitchen and similar work areas), shall have a non-slip surface.

(d) Carpet and carpet pads in resident areas shall be applied with adhesive or stretched taut and maintained without loose edges or wrinkles which might create hazards or interfere with the operation of wheelchairs, walkers, or wheeled carts.

(2) Wall bases in areas subject to wet cleaning shall be coved and tightly sealed.

(3) Wall finishes shall be washable.

(a) Walls in the immediate area of plumbing fixtures shall be smooth and moisture resistant.

(b) Finish, trim, walls, and floor constructions in dietary and food preparation and storage areas may not have spaces that may harbor rodents and insects.

(4) Floor and wall openings for pipes, ducts, and conduits shall be sealed tightly to resist fire and smoke and to minimize

entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(5) All exposed ceilings and ceiling structures in resident and staff work areas shall have finishes that are readily cleanable with ordinary housekeeping equipment. Ceilings in the dietary area and other areas where dust fallout might create a potential problem shall have a finished ceiling that covers all conduits, piping, duct work, and exposed construction systems.

R432-12-19. Heating and Cooling.

There shall be adequate and safe heating and cooling equipment to maintain comfortable temperatures in the facility.

(1) The heating system shall be capable of maintaining temperatures of 80 degrees F (27 degrees C) in areas occupied by residents.

(2) The cooling system shall be capable of maintaining temperatures of 72 degrees F (22 degrees C) in areas occupied by residents.

R432-12-20. Ventilation.

(1) All rooms and areas in the facility shall have provision for positive ventilation.

(a) While natural window ventilation for nonsensitive areas and resident rooms may be utilized where weather permits, mechanical ventilation shall be provided for interior areas and during periods of temperature extremes.

(b) Fans serving exhaust systems shall be located at the discharge end and shall be conveniently accessible for service.

(2) Fresh air intakes shall be located as far as possible from exhaust outlets of ventilating systems, combustion equipment stacks, plumbing vents, or from areas which may collect vehicular exhaust or other noxious fumes.

(3) Furnace rooms shall be provided with sufficient outdoor air to maintain equipment combustion rates and to limit work station temperatures to an Effective Temperature of 90 degrees F (32.5 degrees C). When the ambient outside air temperature is higher than 90 degrees F, then the maximum temperature may be 97 degrees F (36 degrees C).

(4) Exhaust hoods in food-preparation centers shall comply with R392, the Utah Department of Health Food Service Sanitation Regulations. All hoods over cooking ranges shall be equipped with grease filters.

(5) Non-resident as well as resident areas where specific requirements are not given shall be ventilated in accordance with ASHRAE Standard 62-1981, "Ventilation for Acceptable Indoor Air Quality Including Requirements for Outside Air."

(6) Air from areas with odor problems, including toilet rooms, baths, soiled linen storage and housekeeping rooms, shall be exhausted to the outside and not recirculated.

(7) In Level II facilities, fans and dampers shall be interconnected so that activation of dampers will automatically shut down all but exhaust fans.

(8) Supply and return systems shall be in duct. Common returns using corridors or attic spaces as plenums are prohibited.

R432-12-21. Plumbing and Hot Water Systems.

(1) Water supply systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(2) Water distribution systems shall be arranged to provide for continuous hot water at each hot water outlet.

(3) Hot water provided to resident tubs, showers, whirlpools, and handwashing facilities shall be regulated by thermostatically controlled automatic-mixing valves at appropriate temperatures for comfortable use within a range of 105 to 115 degrees F. These valves may be installed on the recirculating system or on individual inlets to appliances.

(4) As a minimum, water heating systems shall provide capacity at temperatures and amounts indicated in Table 3, Hot

Water Use. Water temperature is taken at the point of use or inlet to the equipment.

TABLE 3
HOT WATER USE

	Clinical	Dietary(1)	Laundry
Gallons per Hour per Bed(a)	3	2	2
Temperature (C)(b)	43	49	71(b)
Temperature (F)(b)	105	120	160(b)

(1) Provisions shall be made to provide 180 degree F (82 degree C) rinse water at warewasher (may be by separate booster).

(a) Quantities indicated for design demand of hot water are for general reference minimums and may not substitute for accepted engineering design procedures using actual number and types of fixtures to be installed. Design shall also be affected by temperatures of cold water used for mixing, length of run and insulation relative to heat loss, etc.

(b) Provisions shall be made to provide 160 degree F (71 degree C) hot water at the laundry equipment when needed.

R432-12-22. Drainage Systems.

(1) Drainage piping may not be installed within the ceiling or installed in an exposed location in food preparation centers, food serving facilities, food storage areas, central services, and other sensitive areas. Where overhead drain piping is unavoidable in these areas, as may occur in existing facilities, special provision shall be made to protect the space below from possible leakage, condensation, or dust particles.

(2) Building sewers shall discharge into a community sewerage system. Where such a system is not available, the facility shall treat its sewage in accordance with local and state regulations.

R432-12-23. Electrical Systems.

(1) All electrical materials shall be tested and approved by Underwriters Laboratory.

(2) The electrical installations, including alarm and nurse call system, if required, shall be tested to demonstrate that equipment installation and operation is as intended and appropriate. A written record of performance tests of special electrical systems and equipment shall show compliance with applicable codes.

(3) Switchboards and Power Panels.

(a) The main switchboard shall be located in an area separate from plumbing and mechanical equipment and be accessible only to authorized persons.

(b) The switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and located in a dry, ventilated space.

(c) Overload protection devices shall operate properly in the ambient room temperatures, except for existing Level IV facilities.

(d) Panelboards serving normal lighting and appliance circuits shall be located on the same floor as the circuits they serve.

(4) Lighting. All spaces within buildings that house people, machinery, equipment, or approaches to buildings shall have fixtures for lighting. (See Table 4.)

(a) Resident rooms shall have general and night lighting.

(i) A reading light shall be provided for each resident.

(ii) Flexible light arms, if used, shall be mechanically controlled to prevent the bulb from coming in contact with bed linen.

(iii) At least one night light fixture shall be controlled at the entrance to each resident room.

(iv) All controls for lighting in resident areas shall operate quietly.

(b) Parking lots shall have fixtures for lighting to provide light at levels recommended in the the Illuminating Engineering Society of North America (IESN) Lighting for Parking Facilities (RP-20-1998).

(c) Lighting levels shown in Table 4 shall be used as minimum standards and do not preclude the use of higher levels that may be needed to insure the health and safety of the specific facility population served.

Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

TABLE 4
SMALL HEALTH CARE FACILITIES LIGHTING STANDARDS

Physical Plant Area	MINIMUM FOOT-CANDLES	
	Level I, II, III Facilities	Level IV Facilities
Corridors		
Day	20	15
Night	10	10
Exits	20	20
Stairways	20	20
Nursing Station		
General	30	30
Charting	75	75
Med. Prep.	75	75
Pt./Res. Room		
General	10	10
Reading/Mattress Level	30	30
Toilet area	30	30
Lounge		
General	10	10
Reading	30	30
Recreation	30	30
Dining	30	30
Laundry	30	30

Based on lighting guidelines published in "Lighting for Hospitals and Health Care Facilities", Illuminating Engineering Society of North America, 1995 edition.

(5) Each resident room shall have duplex grounding type receptacles as follows:

- (a) one located on each side of the head of each bed;
- (b) one for television, if used; and
- (c) one on each other wall.

(6) Receptacles may be omitted from exterior walls where construction would make installation impractical.

(7) Duplex grounded receptacles for general use shall be installed in all corridors.

R432-12-24. Emergency Power System.

(1) Facilities that provide care for persons who require electrically operated life-support systems, or when required by Table 1, shall be equipped with an emergency power system.

(2) The following services shall be connected to the emergency generator Life Safety Branch as defined in section 517-32, critical branch as defined in 517-33 and Equipment systems defined its 517-34 of the National Electric Code NFPA 70, which is adopted and incorporated by reference.

(3) Power need not be provided to all building heating and ventilation equipment if it is provided to a common area sufficient in size to accommodate temporary beds on a short-term emergency basis.

(4) Automatic transfer switches shall transfer essential electrical loading to the circuits described above within 10 seconds of any interruption of normal power.

(5) The emergency generator shall be fueled with a storable fuel source such as diesel fuel, gasoline, or propane. At least 48 hours of fuel shall be available.

(6) All other facilities shall make provision for essential emergency lighting and heating during an emergency to meet the needs of residents. All emergency heating devices shall be approved by the local Fire Marshal.

R432-12-25. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The

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26-21-5

R432. Health, Health Systems Improvement, Licensing.
R432-13. Freestanding Ambulatory Surgical Center Construction Rule.

R432-13-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-13-2. Purpose.

The purpose of this rule is to establish construction and physical plant standards for the operation of a freestanding surgical facility that provides surgical services to patients not requiring hospitalization.

R432-13-3. General Design Requirements.

(1) Ambulatory Surgical Centers shall be constructed in accordance with the requirements of R432-4-1 through R432-4-23 and the requirements of the Guidelines for Design and Construction of Hospital and Health Care Facilities, Section 9.2., 9.5 and 9.9 including Appendix A, 2001 edition (Guidelines). Where a modification is cited, the modification supersedes conflicting requirements of R432-4 or the Guidelines.

(2) Ambulatory Surgical Centers shall consist of at least two Class C operating rooms, as outlined in the Guidelines section 9.5.F2, and support facilities.

(3) Ambulatory Surgical Centers shall be equipped to perform general anesthesia. Flammable anesthetics may not be used in Ambulatory Surgical Centers.

(4) Ambulatory Surgical Centers which are located within a building not constructed in accordance with NFPA 101, Life Safety Code, Chapter 20, shall be physically separated in accordance with requirements of the local building official having jurisdiction.

(a) The facility shall have at least two exits leading directly to the exterior of the building.

(b) Design shall preclude unrelated traffic through units or suites of the licensed facility.

R432-13-4. General Construction, Patient Facilities.

(1) Adequate sterile supplies shall be maintained in the facility to meet the maximum demands of one day's case load.

(2) Operating rooms for cystoscopic procedures shall comply with Section 7.7.A4 of the Guidelines.

(3) A toilet room shall be readily accessible to recovery rooms and recovery lounge.

(4) Change areas shall comply with Guidelines subsection 9.5.F5.(i) and shall be arranged to accommodate a one way traffic pattern enabling personnel to change and directly enter the operating room corridor.

(5) Special or additional service areas such as radiology, if required by the functional program, shall comply with the requirements of the General Hospital Rules, R432-100.

R432-13-5. General Construction.

(1) The administration and public areas which are not part of the Ambulatory Surgical Center exiting system, may be located outside of the institutional occupancy envelope when authorized by the local building official having jurisdiction.

(2) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.

(3) An elevator shall be provided when an ambulatory surgical center is located on a level other than at grade. The minimum inside dimensions of the cab shall be at least 5'8" wide by 8'5" deep with a minimum clear door width of 3'8".

(4) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

(5) The facility shall provide for the sanitary storage and treatment or disposal of all categories of waste, including

hazardous and infectious wastes, if applicable, using procedures established by the Utah Department of Environmental Quality and the local health department having jurisdiction.

(6) All rooms shall be mechanically ventilated.

(7) Access to medical gas supply and storage areas shall be arranged to preclude travel through clean or sterile areas. There shall be space for enough reserve gas cylinders to complete at least one routine day's procedures.

(8) An on-site emergency generator shall be provided and the following services shall be connected to the emergency generator:

(a) life safety branch as defined in 517-32 of the National Electric Code NFPA 70, 1999 edition;

(b) critical branch as defined in 517-33 of the National Electric Code NFPA 70, 1999 edition;

(c) equipment system as defined in 517-34 of the National Electric Code NFPA 70, 1999 edition.

(9) There shall be sufficient fuel storage capacity to permit at least four hours continuous operation shall be provided.

(10) Lighting shall comply with R432-4-23(21)(a).

R432-13-6. Extended Recovery Care Unit.

(1) A facility that provides extended recovery services shall maintain a patient care area that is distinct and separate from the post-anesthesia recovery area. The patient care area shall provide the following:

(a) a room or area that ensures patient privacy, including visual privacy;

(b) a minimum of 80 square feet of space for each patient bed with at least three feet between patient beds and between the sides of patient beds and adjacent walls.

(c) a nurse call system at each patient's bed and at the toilet, shower and bathrooms, which shall transmit a visual and auditory signal to a centrally staffed location which identifies the location of the patient summoning help;

(d) a patient bathroom with a lavatory and toilet;

(e) oxygen and suction equipment;

(f) medical and personal care equipment necessary to meet patient needs.

(2) A separate food nutrition area which shall include a counter, sink, refrigerator, heating/warming oven or microwave, and sufficient storage for food items.

R432-13-7. Exclusions to Guidelines.

The following sections of the Guidelines do not apply to Freestanding Surgical Center construction:

(1) Parking, Section 9.5.C.

(2) Waste Processing Systems, Section 9.2.G3.

R432-13-8. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities

March 13, 2003

Notice of Continuation January 28, 2005

26-21-5

26-21-16

R432. Health, Health Systems Improvement, Licensing.**R432-14. Birthing Center Construction Rule.****R432-14-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

R432-14-2. Purpose.

This rule provides construction and physical plant standards for birthing centers.

R432-14-3. General Design Requirements.

(1) Birthing centers shall be constructed in accordance with the requirements of R432-4-1 through R432-4-23 and the requirements of sections 9.2 and 9.7 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition including Appendix A (Guidelines) and are adopted and incorporated by reference.

(2) Birthing Centers shall consist of at least two, but not more than five birthing rooms.

(3) Birthing rooms and ancillary service areas shall be organized in a contiguous physical arrangement.

(4) To qualify for licensure, regardless of size, a Birthing Center shall be constructed in accordance with NFPA 101, Life Safety Code, Chapter 20, New Ambulatory Health Care Occupancies.

(5) Birthing Centers which are located within a building not constructed in accordance with NFPA 101, Life Safety Code, Chapter 20, shall be physically separated in accordance with requirements established by the local building official having jurisdiction and shall have at least two exits leading directly to the exterior of the building.

(6) Administration and public areas that are not part of the Birthing Center exiting system may be located outside of the institutional occupancy envelope when authorized by the local building official having jurisdiction.

(7) A Birthing Center located contiguous with a general hospital may share radiology services, laboratory services, pharmacy services, engineering services, maintenance services, laundry services, housekeeping services, dietary services, and business functions. The owner shall retain in the Birthing Center a written agreement for the shared services.

R432-14-4. General Construction Patient Facilities.

(1) Requirements of sections 9.2 and 9.7 of the Guidelines shall be met except as modified in this section.

(2) When a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(3) When used in this rule, "room or office" describes a specific separate, enclosed space for the service. When "room or office" is not used, multiple services may be accommodated in one enclosed space.

(4) The facility shall be designed to allow access to service areas and common areas without compromising patient privacy.

(5) Patient rooms and service areas shall be grouped to form a physically defined service unit.

(6) Spaces shall be provided for each of the required services.

(7) Interior finishes, lighting, and furnishings reflect a residential rather than an institutional setting.

(8) Maximum room occupancy shall be one mother and her newborn infant or infants.

(9) Each birthing room shall have a window in accordance with R432-4-23(7). Windows with a sight line which permits observation from the exterior shall be arranged or draped to ensure patient privacy.

(10) Patient rooms shall provide each patient a wardrobe, closet, or locker, having minimum clear dimensions of 24 inches by 20 inches, suitable for hanging full-length garments. A clothes rod and adjustable shelf shall be provided.

(11) A toilet room with direct access from the birthing

room shall be accessible to each birthing room.

(a) The toilet room shall contain a toilet, a lavatory, and a shower or tub.

(b) A toilet room may serve two patient rooms.

(c) All toilet room fixtures shall be handicapped accessible and shall have grab bars in compliance with ADAAG.

(d) Each birthing room shall be equipped with a lavatory for handwashing in addition to the lavatory in the toilet room. If the lavatory is equipped with wrist blades, it may be used for scrubbing.

(12) Newborn infant resuscitation facilities, remote from facilities serving the mother, including electrical outlets, oxygen, and suction shall be immediately available to each birthing room in addition to resuscitation equipment provided for the mother.

(13) A separate room for storage of maintenance materials and equipment shall be provided.

(a) The room may serve as a maintenance office with storage for maintenance files, facility drawings, and operation manuals.

(b) The storage room shall be in addition to the required janitors closet.

(14) Special surgical lighting is not required.

(15) An examination light shall be provided in each patient room. The light, if portable, shall be immediately accessible.

(16) An emergency electrical service is connected to an on-site emergency generator is required.

(a) Services shall be connected to the emergency generator to include:

(i) fire alarm system;

(ii) telephone;

(iii) nurse call;

(iv) one duplex convenience outlet in each patient room located to allow use of a portable examination light;

(v) one duplex convenience outlet at each nurse station;

(vi) heating system;

(vii) emergency lighting system.

(b) There shall be sufficient fuel storage capacity to permit at least four hours continuous operation.

R432-14-5. Sections of the Guidelines which are Excluded.

The following sections of the Guidelines do not apply:

(1) Parking, Section 9.7A, subsection 9.7B.2., and subsection 9.7C.2.

(2) Radiology, Section 9.2.C.

(3) Laboratory, Section 9.2.D.

(4) General Purpose Examination Rooms, Subsection 9.2.B1.

(5) Special Purpose Examination Rooms, Subsection 9.2.B2.

(6) Treatment Rooms, Subsection 9.2.B3.

(7) Observation Rooms, Subsection 9.2.B4.

R432-14-6. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas denied if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities

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Notice of Continuation January 28, 2005

26-21-5

26-21-16

R432. Health, Health Systems Improvement, Licensing.**R432-30. Adjudicative Procedure.****R432-30-1. Purpose.**

This rule is adopted pursuant to Title 26, Chapter 21.

R432-30-2. Definitions.

(1) "Department" means the Utah Department of Health, Bureau of Licensing.

(2) "Initial agency determination" means a decision by department staff, without conducting adjudicative proceedings, of the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all determinations to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license, all as limited by Subsection 63-46b-1(2).

(3) "Notice of agency action" means the formal notice meeting the requirements of Subsection 63-46b-3(2) that the department issues to commence an adjudicative proceeding.

(4) "Request for agency action" means the formal written request meeting the requirements of Subsection 63-46b-3(3) that requests the department to commence an adjudicative proceeding.

R432-30-3. Commencement of Adjudicative Proceedings.

(1) All adjudicative proceedings under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act, and under R432, Health Facility Licensing Rules, are formal adjudicative proceedings.

(2) The Department may commence an adjudicative proceeding by filing and serving a notice of agency action in accordance with Subsection 63-46b-3(2) when the Department's actions are of a nature that require an adjudicative proceeding before the Department makes a decision.

(3) A person affected by an initial agency determination may commence an adjudicative proceeding and meet the requirements of a request for agency action under Subsection 63-46b-3(3) by completing the "Facility Licensing Request for Agency Action" form and filing the form with the department.

R432-30-4. Responses.

(1) A respondent to a notice of agency action shall file and serve a written response within 30 calendar days of the postmarked mailing date or last publication date of the notice of agency action.

(2) A respondent who has filed a request for agency action, and has received notice from the presiding officer under Section 63-46b-3(3)(d)(iii) that further proceedings are required to determine the Department's response to the request, shall file and serve a written response within 30 calendar days of the postmarked mailing date or last publication date of the presiding officer's notice.

(3) The written response shall:

(a) include the information specified in Subsection 63-46b-6(1);

(b) be signed by the respondent or the respondent's representative; and

(c) be filed with the Department during the time period specified in Subsection R432-30-4(1) or R432-30-4(2).

(4) The respondent shall send one copy of the response by certified mail to each party.

(5) A person who has filed a request for agency action and has received notice from the presiding officer under Section 63-46b-3(3)(d)(ii) that the request is denied may request a hearing before the Department to challenge the denial. The person must complete and submit the Department hearing request form to the presiding officer within 30 calendar days of the postmarked mailing date of the presiding officer's notice.

(6) The presiding officer upon motion of a party or upon the presiding officer's own motion may allow any pleadings to

be amended or corrected. Defects which do not affect substantial rights of the parties shall be disregarded.

R432-30-5. Discovery.

(1) Any party to a formal adjudicative proceeding may engage in discovery consistent with the provisions of this rule.

(2) The provisions of Rules 26, 27, 28, 29, 30, 32, 34, 36, and 37 of the Utah Rules of Civil Procedure, current January 1, 1995, are adopted and incorporated by reference.

(a) Where the incorporated Utah Rules of Civil Procedure refer to the court or to the clerk, the reference shall be to the presiding officer.

(b) Statutory restrictions on the release of information held by governmental entity shall be honored in controlling what is discoverable.

(c) All response times that are greater than 10 working days in the incorporated Utah Rules of Civil Procedure are amended to be 10 working days from the postmark of the mailing date of the request, unless otherwise ordered by the presiding officer.

(d) The parties shall ensure that all discovery is completed at least 10 calendar days before the day of the hearing. The parties may not make discovery requests to which the response time falls beyond 10 calendar days before the day of the hearing.

(e) Depositions may be recorded by audio recording equipment. However, any deposition to be introduced at the hearing must be first transcribed to a written document.

(f) Service of any discovery request or subpoena may be made upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure. Service may be made by mail, by the party or by the party's agent.

(g) Subpoenas to compel the attendance of witnesses as provided in Rule 30(a) shall conform to R432-30-6.

R432-30-6. Witnesses and Subpoenas.

(1) Each party is responsible for the presence of that party's witnesses at the hearing.

(2) The presiding hearing officer may issue a subpoena to compel the attendance of a witness or the production of evidence, in accordance with the following:

(a) the officer may issue the subpoena upon a party's motion supported by affidavit showing sufficient need, or upon the officer's own motion;

(b) the party to whom the hearing officer has issued a subpoena shall cause the subpoena and a copy of the affidavit, if any, to be served.

(c) every subpoena shall be issued by the presiding officer under the seal of the department, shall state the title of the action, and shall command every person to whom it is directed to attend and give testimony at time and place therein specified.

(d) a supporting affidavit for a subpoena duces tecum for the production by a witness of books, accounts, memoranda, correspondence, photographs, papers, documents, records, or other tangible thing shall include the following:

(i) the name and address of the entity upon whom the subpoena is to be served;

(ii) a description of what the party seeks to have the witness bring;

(iii) a showing of the materiality to the issue involved in the hearing;

(iv) a statement by the party that to the best of his knowledge the witness has such items in his possession or under his control.

R432-30-7. Certificate of Service.

There shall appear on all documents required to be served a certificate of service dated and signed by the party or his agent in substantially the following form:

I certify that I served the foregoing document upon all

parties to this proceeding by delivering (or mailing postage prepaid and properly addressed, or causing to be delivered) a copy of it to (provide the name of the person).

R432-30-8. Stays and Temporary Remedy.

(1) During the pendency of judicial review, a party may petition for a stay of the order or other temporary remedy by filing a written petition with the presiding officer within seven calendar days of the day the order is issued.

(2) The presiding officer shall issue a written decision within ten working days of the filing date of the request. The presiding officer may grant a stay or other temporary remedy if such an action is in the best interest of the patients or residents.

(3) The request for a stay or temporary remedy shall be considered denied if the presiding officer does not issue a written decision within ten days of the filing of a written petition.

(4) The presiding officer may grant a stay or other temporary remedy on the presiding officer's own motion.

R432-30-9. Declaratory Orders.

(1) Any person or agency may petition for a department declaratory ruling of rights, status, or legal relations under a specific statute or rule by following the procedure outlined in Rule R380-1.

(2) Any person or agency may petition for a department declaratory ruling on orders issued by the Bureau of Health Facility Licensure in areas where the Health Facility Committee has statutory authority to issue orders by following the procedures outlined in Rule R380-5.

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R432. Health, Health Systems Improvement, Licensing.**R432-270. Assisted Living Facilities.****R432-270-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

R432-270-2. Purpose.

This rule establishes the licensing and operational standards for assisted living facilities Type I and Type II. Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to meet the care needs in a safe manner.

R432-270-3. Definitions.

- (1) The terms used in these rules are defined in R432-1-3.
- (2) In addition:
 - (a) "Assessment" means documentation of each resident's ability or current condition in the following areas:
 - (i) memory and daily decision making ability;
 - (ii) ability to communicate effectively with others;
 - (iii) physical functioning and ability to perform activities of daily living;
 - (iv) continence;
 - (v) mood and behavior patterns;
 - (vi) weight loss;
 - (vii) medication use and the ability to self-medicate;
 - (viii) special treatments and procedures;
 - (ix) disease diagnoses that have a relationship to current activities of daily living status, behavior status, medical treatments, or risk of death;
 - (x) leisure patterns and interests;
 - (xi) assistive devices; and
 - (xii) prosthetics.
 - (b) "Activities of daily living (ADL)" are the following:
 - (i) personal grooming, including oral hygiene and denture care;
 - (ii) dressing;
 - (iii) bathing;
 - (iv) toileting and toilet hygiene;
 - (v) eating during mealtime;
 - (vi) self administration of medication; and
 - (vii) independent transferring, ambulation and mobility.
 - (c) "Dependent" means a person who meets one or all of the following criteria:
 - (i) requires inpatient hospital or 24-hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;
 - (ii) is unable to evacuate from the facility without the physical assistance of two persons.
 - (d) "Home-like" as used in statute and this rule means a place of residence which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.
 - (e) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.
 - (f) "Self-direct medication administration" means the resident can:
 - (i) recognize medications offered by color or shape; and
 - (ii) question differences in the usual routine of medications.
 - (g) "Semi-independent" means a person who is:
 - (i) physically disabled but able to direct his own care; or
 - (ii) cognitively impaired or physically disabled but able to evacuate from the facility or to a zone or area of safety with limited physical assistance of one person.
 - (h) "Service Plan" means a written plan of care for services

which meets the requirements of R432-270-13.

(i) "Services" means activities which help the residents develop skills to increase or maintain their level of psychosocial and physical functioning, or which assist them in activities of daily living.

(j) "Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.

(k) "Significant assistance" means the resident is unable to perform any part of an ADL and is dependent upon staff or others to accomplish the ADL as defined in R432-270-3(2)(b).

(l) "Social care" means:

(i) providing opportunities for social interaction in the facility or in the community; or

(ii) providing services to promote independence or a sense of self-direction.

(m) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

R432-270-4. Licensing.

(1) A person that offers or provides care to two or more unrelated individuals in a residential facility must be minimally licensed as an assisted living facility if:

(a) the individuals stay in the facility for more than 24 hours; and

(b) the facility provides or arranges for the provision of assistance with one or more activity of daily living for any of the individuals.

(2) An assisted living facility may be licensed as a Type I facility if:

(a) the individuals under care are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

(3) An assisted living facility must be licensed as a Type II facility if the individuals under care are capable of achieving mobility sufficient to exit the facility only with the limited assistance of one person.

(4) A Type I assisted living facility shall provide social care to the individuals under care.

(5) A Type II assisted living facility shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who need any of these services as required by department rule.

(6) Type I and II assisted living facilities must provide each resident with a separate living unit. Two residents may share a unit upon written request of both residents.

(7) An individual may continue to remain in an assisted living facility provided:

(a) the facility construction can meet the individual's needs;

(b) the individual's physical and mental needs are appropriate to the assisted living criteria; and

(c) the facility provides adequate staffing to meet the individual's needs.

(8) Assisted living facilities may be licensed as large, small or limited capacity facilities.

(a) A large assisted living facility houses 17 or more residents.

(b) A small assisted living facility houses six to 16 residents.

(c) A limited capacity assisted living facility houses two to five residents.

R432-270-5. Licensee.

(1) The licensee must:

(a) ensure compliance with all federal, state, and local laws;

(b) assume responsibility for the overall organization,

management, operation, and control of the facility;

(c) establish policies and procedures for the welfare of residents, the protection of their rights, and the general operation of the facility;

(d) implement a policy which ensures that the facility does not discriminate on the basis of race, color, sex, religion, ancestry, or national origin in accordance with state and federal law;

(e) secure and update contracts for required services not provided directly by the facility;

(f) respond to requests for reports from the Department; and

(g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility. The licensee and administrator may be the same person.

(2) The licensee shall implement a quality assurance program to include a Quality Assurance Committee. The committee must:

(a) consist of at least the facility administrator and a health care professional, and

(b) meet at least quarterly to identify and act on quality issues.

(3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

R432-270-6. Administrator Qualifications.

(1) The administrator shall have the following qualifications:

(a) be 21 years of age or older;

(b) have knowledge of applicable laws and rules;

(c) have the ability to deliver, or direct the delivery of, appropriate care to residents;

(d) be of good moral character;

(e) complete the criminal background screening process defined in R432-35; and

(f) for all Type II facilities, complete a Department approved national certification program within six months of hire.

(2) In addition to R432-270-6(1) the administrator of a Type I facility shall have an associate degree or two years experience in a health care facility.

(3) In addition to R432-270-6(1) the administrator of a Type II small or limited-capacity assisted living facility shall have one or more of the following:

(a) an associate degree in a health care field;

(b) two years or more management experience in a health care field; or

(c) one year's experience in a health care field as a licensed health care professional.

(4) In addition to R432-270-6(1) the administrator of a Type II large assisted living facility must have one or more of the following:

(a) a State of Utah health facility administrator license;

(b) a bachelor's degree in a health care field, to include management training or one or more years of management experience;

(c) a bachelor's degree in any field, to include management training or one or more years of management experience and one year or more experience in a health care field; or

(d) an associates degree and four years or more management experience in a health care field.

R432-270-7. Administrator Duties.

(1) The administrator must:

(a) be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility;

(b) designate, in writing, a competent employee, 21 years of age or older, to act as administrator when the administrator is unavailable for immediate contact. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.

(2) The administrator is responsible for the following:

(a) recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;

(b) verify all required licenses and permits of staff and consultants at the time of hire or the effective date of contract;

(c) maintain facility staffing records for the preceding 12 months;

(d) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;

(e) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;

(f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;

(g) complete an investigation whenever there is reason to believe that a resident has been subject to abuse, neglect, or exploitation;

(h) report all suspected abuse, neglect, or exploitation in accordance with Section 62A-3-302, and document appropriate action if the alleged violation is verified.

(i) notify the resident's responsible person within 24 hours of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;

(j) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;

(k) complete, submit, and file all records and reports required by the Department;

(l) participate in a quality assurance program; and

(m) secure and update contracts for required professional and other services not provided directly by the facility.

(3) The administrator's responsibilities shall be included in a written and signed job description on file in the facility.

R432-270-8. Personnel.

(1) Qualified competent direct-care personnel shall be on the premises 24 hours a day to meet residents needs as determined by the residents' assessment and service plans. Additional staff shall be employed as necessary to perform office work, cooking, housekeeping, laundering and general maintenance.

(2) The services provided or arranged by the facility shall be provided by qualified persons in accordance with the resident's written service plan.

(3) All personnel who provide personal care to residents in a Type I facility shall be at least 18 years of age and shall have related experience in the job assigned or receive on the job training.

(4) Personnel who provide personal care to residents in a Type II facility must be certified nurse aides or complete a state certified nurse aide program within four months of the date of hire.

(5) Personnel shall be licensed, certified, or registered in accordance with applicable state laws.

(6) The administrator shall maintain written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.

(7) Facility policies and procedures must be available to personnel at all times.

(8) All personnel must receive documented orientation to the facility and the job for which they are hired. Orientation shall include the following:

(a) job description;

- (b) ethics, confidentiality, and residents' rights;
- (c) fire and disaster plan;
- (d) policy and procedures; and
- (e) reporting responsibility for abuse, neglect and exploitation.

(9) Each employee shall receive documented in-service training. The training shall be tailored to include all of the following subjects that are relevant to the employee's job responsibilities:

- (a) principles of good nutrition, menu planning, food preparation, and storage;
- (b) principles of good housekeeping and sanitation;
- (c) principles of providing personal and social care;
- (d) proper procedures in assisting residents with medications;
- (e) recognizing early signs of illness and determining when there is a need for professional help;
- (f) accident prevention, including safe bath and shower water temperatures;
- (g) communication skills which enhance resident dignity;
- (h) first aid;
- (i) resident's rights and reporting requirements of Section 62A-3-201 to 312; and
- (j) special needs of the Dementia/Alzheimer's resident.

(10) An employee who reports suspected abuse, neglect, or exploitation shall not be subject to retaliation, disciplinary action, or termination by the facility for that reason alone.

(11) The facility shall establish a personnel health program through written personnel health policies and procedures which protect the health and safety of personnel, residents and the public.

(12) The facility must complete an employee placement health evaluation to include at least a health inventory when an employee is hired. Facilities may use their own evaluation or a Department approved form.

(a) A health inventory shall obtain at least the employee's history of the following:

- (i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and
- (ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.

(b) The facility shall develop employee health screening and immunization components of the personnel health program.

(c) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R388-804, Tuberculosis Control Rule.

(i) Skin testing must be conducted on each employee within two weeks of hire and after suspected exposure to a resident with active tuberculosis.

(ii) All employees with known positive reaction to skin tests are exempt from skin testing.

(d) All infections and communicable diseases reportable by law shall be reported to the local health department in accordance with the Communicable Disease Rule, R386-702-2.

(e) The facility shall comply with the Occupational Safety and Health Administration's Blood-borne Pathogen Standard.

R432-270-9. Residents' Rights.

(1) Assisted living facilities shall develop a written resident's rights statement based on this section.

(2) The administrator or designee shall give the resident a written description of the resident's legal rights upon admission, including the following:

(a) a description of the manner of protecting personal funds, in accordance with Section R432-270-20; and

(b) a statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

(3) The administrator or designee shall notify the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and of all rules governing resident conduct and responsibilities during the stay in the facility.

(4) The administrator or designee must promptly notify in writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) Resident rights include the following:

(a) the right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

(b) the right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;

(c) the right to be free of mental and physical abuse, and chemical and physical restraints;

(d) the right to refuse to perform work for the facility;

(e) the right to perform work for the facility if the facility consents and if:

(i) the facility has documented the resident's need or desire for work in the service plan,

(ii) the resident agrees to the work arrangement described in the service plan,

(iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid, and

(iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;

(f) the right to privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;

(g) the right to share a unit with a spouse if both spouses consent, and if both spouses are facility residents;

(h) the right to privacy when receiving personal care or services;

(i) the right to keep personal possessions and clothing as space permits;

(j) the right to participate in religious and social activities of the resident's choice;

(k) the right to interact with members of the community both inside and outside the facility;

(l) the right to send and receive mail unopened;

(m) the right to have access to telephones to make and receive private calls;

(n) the right to arrange for medical and personal care;

(o) the right to have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

(p) the right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night. Assisted living Type II residents who have been assessed to require a secure environment may be housed in a secure unit, provided the secure unit is approved by the fire authority having jurisdiction. This right does not prohibit the establishment of house rules such as locking doors at night for the protection of residents;

(q) the right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

(r) the right to be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

(s) the right to manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in R432-270-20 concerning management of resident funds;

(t) the right, upon oral or written request, to access within 24 hours all records pertaining to the resident, including clinical records;

(u) the right, two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

(v) the right to personal privacy and confidentiality of personal and clinical records;

(w) the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(x) the right to be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

(i) medical condition;

(ii) the right to refuse treatment;

(iii) the right to formulate an advance directive in accordance with UCA Section 75-2-1101; and

(iv) the right to refuse to participate in experimental research.

(6) The following items must be posted in a public area of the facility that is easily accessible by residents:

(a) the long term care ombudsmen's notification poster;

(b) information on Utah protection and advocacy systems; and

(c) a copy of the resident's rights.

(7) The facility shall have available in a public area of the facility the results of the current survey of the facility and any plans of correction.

(8) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.

(a) The facility shall provide private space for resident groups or family groups.

(b) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.

(c) The administrator shall designate an employee to provide assistance and to respond to written requests that result from group meetings.

R432-270-10. Admissions.

(1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the facility must obtain sufficient information about the person's ability to function in the facility through the following:

(a) an interview with the resident and the resident's responsible person; and

(b) the completion of the resident assessment.

(3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) The facility shall accept and retain only residents who meet the following criteria:

(a) Residents admitted to a Type I facility shall meet the following criteria before being admitted:

(i) be ambulatory or mobile and be capable of taking life saving action in an emergency;

(ii) have stable health;

(iii) require no assistance or only limited assistance in the activities of daily living; and

(iv) require and receive intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(b) Residents admitted to a Type II facility may be

independent and semi-independent, but shall not be dependent.

(5) Type I and Type II assisted living facilities shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others; or

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital or long-term nursing care.

(6) A Type I facility may accept or retain residents who:

(a) do not require significant assistance during night sleeping hours;

(b) are able to take life saving action in an emergency without the assistance of another person; or

(c) do not require significant assistance from staff or others with more than two ADL's.

(7) A Type II facility may accept or retain residents who require significant assistance from staff or others in more than two ADL's, provided the staffing level and coordinated supportive health and social services meet the needs of the resident.

(8) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice prior to any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions under which the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund provisions that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident,

(ii) emergency transfers or discharges,

(iii) transfers or discharges without notice, and

(iv) the death of a resident.

R432-270-11. Transfer or Discharge Requirements.

(1) A resident may be discharged, transferred, or evicted for one or more of the following reasons:

(a) The facility is no longer able to meet the resident's needs because the resident poses a threat to health or safety to self or others, or the facility is not able to provide required medical treatment.

(b) The resident fails to pay for services as required by the admission agreement.

(c) The resident fails to comply with written policies or rules of the facility.

(d) The resident wishes to transfer.

(e) The facility ceases to operate.

(2) Prior to transferring or discharging a resident, the facility shall serve a transfer or discharge notice upon the resident and the resident's responsible person.

(a) The notice shall be either hand-delivered or sent by certified mail.

(b) The notice shall be made at least 30 days before the day on which the facility plans to transfer or discharge the resident, except that the notice may be made as soon as practicable before transfer or discharge if:

(i) the safety or health of persons in the facility is endangered; or

(ii) an immediate transfer or discharge is required by the resident's urgent medical needs.

(3) The notice of transfer or discharge shall:

(a) be in writing with a copy placed in the resident file;
 (b) be phrased in a manner and in a language the resident can understand;

(c) detail the reasons for transfer or discharge;

(d) state the effective date of transfer or discharge;

(e) state the location to which the resident will be transferred or discharged;

(f) state that the resident may request a conference to discuss the transfer or discharge; and

(g) contain the following information:

(i) for facility residents who are 60 years of age or older, the name, mailing address, and telephone number of the State Long Term Care Ombudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

(iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The facility shall provide sufficient preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.

(5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the facility shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person must request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

R432-270-12. Resident Assessment.

(1) Each person admitted to an assisted living facility shall have a personal physician or a licensed practitioner prior to admission.

(2) A signed and dated resident assessment shall be completed on each resident prior to admission and at least every six months thereafter.

(3) In Type I and Type II facilities, the initial and six-month resident assessment must be completed and signed by a licensed health care professional.

(4) The resident assessment must include a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

(5) The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

(6) The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition.

R432-270-13. Service Plan.

(1) Each resident must have an individualized service plan that is consistent with the resident's unique cognitive, medical,

physical, and social needs, and is developed within seven calendar days of the day the facility admits the resident. The facility shall periodically revise the service plan as needed.

(2) The facility shall use the resident assessment to develop, review, and revise the service plan for each resident.

(3) The service plan must be prepared by the administrator or a designated facility service coordinator.

(4) The service plan shall include a written description of the following:

(a) what services are provided;

(b) who will provide the services, including the resident's significant others who may participate in the delivery of services;

(c) how the services are provided;

(d) the frequency of services; and

(e) changes in services and reasons for those changes.

R432-270-14. Service Coordinator.

(1) If the administrator appoints a service coordinator, the service coordinator must have knowledge, skills and abilities to coordinate the service plan for each resident.

(2) The duties and responsibilities of the service coordinator must be defined by facility policy and included in the designee's job description.

(3) The service coordinator is responsible to document that the resident or resident's designated responsible person is encouraged to actively participate in developing the service plan.

(4) The administrator and designated service coordinator are responsible to ensure that each resident's service plan is implemented by facility staff.

R432-270-15. Nursing Services.

(1) The facility must develop written policies and procedures defining the level of nursing services provided by the facility.

(2) A Type I assisted living facility must employ or contract with a registered nurse to provide or delegate medication administration for any resident who is unable to self-medicate or self-direct medication management.

(3) A Type II assisted living facility must employ or contract with a registered nurse to provide or supervise nursing services to include:

(a) a nursing assessment on each resident;

(b) general health monitoring on each resident; and

(c) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel in accordance with the Utah Nurse Practice Act R156-31B-701.

(4) A Type I assisted living facility may provide nursing care according to facility policy. If a Type I assisted living facility chooses to provide nursing services, the nursing services must be provided in accordance with R432-270-15(3)(a) through (c).

(5) Type I and Type II assisted living facilities shall not provide skilled nursing care, but must assist the resident in obtaining required services. To determine whether a nursing service is skilled, the following criteria shall apply:

(a) The complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of licensed health care professional personnel.

(b) Care is needed to prevent, to the extent possible, deterioration of a condition or to sustain current capacities of a resident.

(6) At least one certified nurse aide must be on duty in a Type II facility 24 hours per day.

R432-270-16. Secure Units.

(1) A Type II assisted living facility with approved secure

units may admit residents with a diagnosis of Alzheimer's/dementia if the resident is able to exit the facility with limited assistance from one person.

(2) Each resident admitted to a secure unit must have an admission agreement that indicates placement in the secure unit.

(a) The secure unit admission agreement must document that a Department-approved wander risk management agreement has been negotiated with the resident or resident's responsible person.

(b) The secure unit admission agreement must identify discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility is able to provide.

(3) There shall be at least one staff with documented training in Alzheimer's/dementia care in the secure unit at all times.

(4) Each secure unit must have an emergency evacuation plan that addresses the ability of the secure unit staff to evacuate the residents in case of emergency.

R432-270-17. Arrangements for Medical or Dental Care.

(1) The facility shall assist residents in arranging access for ancillary services for medically related care including physician, dentist, pharmacist, therapy, podiatry, hospice, home health, and other services necessary to support the resident.

(2) The facility shall arrange for care through one or more of the following methods:

(a) notifying the resident's responsible person;

(b) arranging for transportation to and from the practitioner's office; or

(c) arrange for a home visit by a health care professional.

(3) The facility must notify a physician or other health care professional when the resident requires immediate medical attention.

R432-270-18. Activity Program.

(1) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The facility shall provide opportunities for the following:

(a) socialization activities;

(b) independent living activities to foster and maintain independent functioning;

(c) physical activities; and

(d) community activities to promote resident participation in activities away from the facility.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

(a) coordinate all recreational activities, including volunteer and auxiliary activities;

(b) plan, organize, and conduct the residents' activity program with resident participation; and

(c) develop and post monthly activity calendars, including information on community activities, based on residents' needs and interests.

(4) The facility shall provide sufficient equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents.

(5) The facility shall provide storage for recreational equipment and supplies. Locked storage must be provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-19. Medication Administration.

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of

assistance provided shall be documented on each resident's assessment.

(2) Each resident's medication program must be administered by means of one of the methods described in (a) through (d) in this section:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct medication administration by:

(i) reminding the resident to take the medication;

(ii) opening medication containers; and

(iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may administer medications from a package set up by a licensed practitioner or licensed pharmacist which identifies the medication and time to administer. If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.

(d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with the Nurse Practice Act and R156-31B-701.

(ii) The medications must be administered according to the service plan.

(iii) The delegating authority must provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(iv) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(3) The facility must have a licensed health care professional or licensed pharmacist review all resident medications at least every six months.

(4) Medication records shall include the following:

(a) the resident's name;

(b) the name of the prescribing practitioner;

(c) medication name including prescribed dosage;

(d) the time, dose and dates administered;

(e) the method of administration;

(f) signatures of personnel administering the medication;

and

(g) the review date.

(5) Each facility must have a licensed health care professional or licensed pharmacist document any change in the dosage or schedule of medication in the medication record. The delegating authority must notify all unlicensed assistive personnel who administer medications of the medication change.

(6) Each resident's medication record must contain a list of possible reactions and precautions for prescribed medications.

(7) The facility must notify the licensed health care professional when medication errors occur.

(8) Medication error incident reports shall be completed by the person who makes the error.

(9) Medication errors must be incorporated into the facility quality improvement process.

(10) Medications shall be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, the resident shall have timely access to the medication.

(b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(c) The facility must develop and implement policies for the security and disposal of narcotics. Any disposal of controlled substances by a licensee or facility staff shall be consistent with the provisions of 21 CFR 1307.21.

(8) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications.

(a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central storage.

R432-270-20. Management of Resident Funds.

(1) Residents have the right to manage and control their financial affairs. The facility may not require residents to deposit their personal funds or valuables with the facility.

(2) The facility need not handle residents' cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with the following:

(a) The licensee shall establish and maintain on the residents' behalf a system that assures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

(i) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using residents' monies or valuables as their own;

(ii) separate residents' monies and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;

(iii) maintain a separate account for resident funds for each facility and not commingle such funds with resident funds from another facility;

(iv) for records of residents' monies which are maintained as a drawing account, include a control account for all receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;

(v) keep each account with columns for debits, credits, and balance; and

(vi) include a copy of the receipt that it furnished to the residents for funds received and other valuables entrusted to the licensee for safekeeping.

(b) The facility shall make individual financial records available on request through quarterly statements to the resident or the resident's legal representative.

(c) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Department that all resident personal funds deposited with the facility are secure.

(d) The facility shall deposit, within five days of receipt, all resident monies that are in excess of \$150 in an interest-bearing bank account, that is separate from any of the facility's operating accounts, in a local financial institution.

(i) Interest earned on a resident's bank account shall be credited to the resident's account.

(ii) In pooled accounts, there shall be a separate accounting for each resident's share, including interest.

(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a non-interest-bearing account, interest-bearing account, or petty cash fund.

(f) Upon discharge of a resident with funds or valuables deposited with the facility, the facility shall that day convey the resident's funds, and a final accounting of those funds, to the resident or the resident's legal representative. Funds and valuables kept in an interest-bearing account shall be accounted for and made available within three working days.

(g) Within 30 days following the death of a resident, except in a medical examiner case, the facility shall convey the resident's valuables and funds entrusted to the facility, and a final accounting of those funds, to the individual administering the resident's estate.

R432-270-21. Facility Records.

(1) The facility must maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

(3) The facility shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records must include the following:

- (a) employee application;
- (b) date of employment;
- (c) termination date;
- (d) reason for leaving;
- (e) documentation of CPR and first aid training;
- (f) health inventory;
- (g) food handlers permits;
- (h) TB skin test documentation; and
- (i) documentation of criminal background screening.

(4) The facility must maintain in the facility a separate record for each resident that includes the following:

- (a) the resident's name, date of birth, and last address;
 - (b) the name, address, and telephone number of the person who administers and obtains medications, if this person is not facility staff;
 - (c) the name, address, and telephone number of the individual to be notified in case of accident or death;
 - (d) the name, address, and telephone number of a physician and dentist to be called in an emergency;
 - (e) the admission agreement;
 - (f) the resident assessment; and
 - (g) the resident service plan.
- (5) Resident records must be retained for at least three years following discharge.

R432-270-22. Food Services.

(1) Facilities must have the capability to provide three meals a day, seven days a week, to all residents, plus snacks.

(a) The facility shall maintain onsite a one-week supply of nonperishable food and a three day supply of perishable food as required to prepare the planned menus.

(b) There shall be no more than a 14 hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening.

(c) The facility food service must comply with the following:

(i) All food shall be of good quality and shall be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) The facility shall ensure food is palatable, attractively served, and delivered to the resident at the appropriate temperature.

(iii) Powdered milk may only be used as a beverage, upon the resident's request, but may be used in cooking and baking.

(2) The facility shall provide adaptive eating equipment and utensils for residents as needed.

(3) A different menu shall be planned and followed for each day of the week.

(a) All menus must be approved and signed by a certified dietitian.

(b) Cycle menus shall cover a minimum of three weeks.

(c) The current week's menu shall be posted for residents' viewing.

(d) Substitutions to the menu that are actually served to the residents shall be recorded and retained for three months for review by the Department.

(4) Meals shall be served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(5) Residents shall be encouraged to eat their meals in the dining room with other residents.

(6) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

(7) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals. Dietitian consultation shall be provided at least quarterly and documented for residents requiring therapeutic diets.

(8) The facility shall employ food service personnel to meet the needs of residents.

(a) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

(b) All personnel who prepare or serve food shall have a current Food Handler's Permit.

(9) Food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, R392-100.

(10) If food service personnel also work in housekeeping or provide direct resident care, the facility must develop and implement employee hygiene and infection control measures to maintain a safe, sanitary food service.

R432-270-23. Housekeeping Services.

(1) The facility shall employ housekeeping staff to maintain both the exterior and interior of the facility.

(2) The facility shall designate a person to direct housekeeping services. This person shall:

(a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff.

(b) ensure all furniture, bedding, linens, and equipment are clean before use by another resident.

(3) The facility shall control odors by maintaining cleanliness.

(4) There shall be a trash container in every occupied room.

(5) All cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.

(6) Housekeeping personnel shall be trained in preparing and using cleaning solutions, cleaning procedures, proper use of equipment, proper handling of clean and soiled linen, and procedures for disposal of solid waste.

(7) Bathtubs, shower stalls, or lavatories shall not be used as storage places.

(8) Throw or scatter rugs that present a tripping hazard to residents are not permitted.

R432-270-24. Laundry Services.

(1) The facility shall provide laundry services to meet the needs of the residents, including sufficient linen supply to permit a change in bed linens for the total number of licensed

beds, plus an additional fifty percent of the licensed bed capacity.

(2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

(3) Food may not be stored, prepared, or served in any laundry area.

(4) The facility shall make available for resident use, the following:

(a) at least one washing machine and one clothes dryer; and

(b) at least one iron and ironing board.

R432-270-25. Maintenance Services.

(1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, in good repair and in compliance with R432-6.

(a) Fire rated construction and assemblies must be maintained in accordance with R710-3, Assisted Living Facilities.

(b) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.

(c) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning.

(d) Air filters installed in heating, ventilation and air conditioning systems must be inspected, cleaned or replaced in accordance with manufacturer specifications.

(2) A pest control program shall be conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified by the State, to ensure the absence of vermin and rodents. Documentation of the pest control program shall be maintained for Department review.

(3) The facility shall document maintenance work performed.

(4) Hot water temperature controls shall automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents. The facility shall maintain hot water delivered to public and resident care areas at temperatures between 105 - 120 degrees Fahrenheit.

R432-270-26. Disaster and Emergency Preparedness.

(1) The facility is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline the protection or evacuation of all residents, and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations.

(a) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

(b) The emergency and disaster response plan shall be in writing and distributed or made available to all facility staff and residents to assure prompt and efficient implementation.

(c) The licensee and the administrator must review and update the plan as necessary to conform with local emergency plans. The plan shall be available for review by the Department.

(3) The facility's emergency and disaster response plan must address the following:

(a) the names of the person in charge and persons with decision-making authority;

(b) the names of persons who shall be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility alarm systems;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

(h) delivery of essential care and services to facility occupants by alternate means;

(i) delivery of essential care and services when additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency.

(4) The facility must maintain safe ambient air temperatures within the facility.

(a) Emergency heating must have the approval of the local fire department.

(b) Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.

(c) The facility shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.

(5) Personnel and residents shall receive instruction and training in accordance with the plans to respond appropriately in an emergency. The facility shall:

(a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

(b) hold simulated disaster drills semi-annually;

(c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

(d) document all drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

(6) The administrator shall be in charge during an emergency. If not on the premises, the administrator shall make every effort to report to the facility, relieve subordinates and take charge.

(7) The facility shall provide in-house all equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

(8) The following information shall be posted in prominent locations throughout the facility:

(a) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and

(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.

R432-270-27. First Aid.

(1) There shall be one staff person on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure that each resident receives prompt first aid as needed.

(2) First aid training refers to any basic first aid course

approved by the American Red Cross or Utah Emergency Medical Training Council.

(3) The facility must have a first aid kit available at a specified location in the facility.

(4) The facility shall have a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency.

(5) The facility must have a clean up kit for blood borne pathogens.

R432-270-28. Pets.

(1) The facility may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) Pets must be kept clean and disease-free.

(3) The pets' environment shall be kept clean.

(4) Small pets such as birds and hamsters shall be kept in appropriate enclosures.

(5) Pets that display aggressive behavior are not permitted in the facility.

(6) Pets that are kept at the facility or are frequent visitors must have current vaccinations.

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each facility with birds shall have procedures which prevent the transmission of psittacosis. Procedures shall ensure the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-270-29. Respite Services.

(1) Assisted Living facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health.

(2) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person.

(3) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14-days for any single respite stay. Stays which exceed 14 days shall be considered a non-respite assisted living facility admission, subject to the requirements of R432-270.

(4) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

(6) The facility must complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(7) The facility shall have written policies and procedures approved by the Department prior to providing respite care. Policies and procedures must be available to staff regarding the respite care clients which include:

(a) medication administration;

(b) notification of a responsible party in the case of an emergency;

(c) service agreement and admission criteria;

(d) behavior management interventions;

(e) philosophy of respite services;

(f) post-service summary;

(g) training and in-service requirement for employees; and

(h) handling personal funds.

(8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.

(9) The facility shall maintain a record for each person receiving respite services which includes:

- (a) a service agreement;
 - (b) demographic information and resident identification data;
 - (c) nursing notes;
 - (d) physician treatment orders;
 - (e) records made by staff regarding daily care of the person in service;
 - (f) accident and injury reports; and
 - (g) a post-service summary.
- (10) Retention and storage of respite records shall comply with R432-270-21(1), (2), and (5).

(11) If a person has an advanced directive, a copy shall be filed in the respite record and staff shall be informed of the advanced directive.

R432-270-29b. Adult Day Care Services.

(1) Assisted Living Facilities Type I and II may offer adult day care services and are not required to obtain a license from Utah Department of Human Services. If facilities provide adult day care services, they shall submit policies and procedures for Department approval.

(2) "Adult Day Care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a licensed health care setting.

(3) A qualified Director shall be designated by the governing board to be responsible for the day to day program operation.

(4) The Director shall have written records on-site for each consumer and staff person, to include the following:

- (a.) Demographic information;
- (b.) An emergency contact with name, address and telephone number;
- (c.) Consumer health records, including the following:
 - (i) record of medication including dosage and administration;
 - (ii) a current health assessment, signed by a licensed practitioner; and
 - (iii) level of care assessment.
- (d.) Signed consumer agreement and service plan.
- (e) Employment file for each staff person which includes:
 - (i) health history;
 - (ii) background clearance consent and release form;
 - (iii) orientation completion, and
 - (iv) in-service requirements.

(5) The program shall have written eligibility, admission and discharge policy to include the following:

- (a) Intake process;
- (b) Notification of responsible party;
- (c) Reasons for admission refusal which includes a written, signed statement;
- (d) Resident rights notification; and
- (e) Reason for discharge or dismissal.

(6) Before a program admits a consumer, a written assessment shall be completed to evaluate current health and medical history, immunizations, legal status, and social psychological factors.

(7) A written consumer agreement, developed with the consumer, the responsible party and the Director or designee, shall be completed, signed by all parties include the following:

- (a) Rules of the program;
- (b) Services to be provided and cost of service, including refund policy; and
- (c) Arrangements regarding absenteeism, visits, vacations, mail, gifts and telephone calls.

(8) The Director, or designee, shall develop, implement and review the individual consumer service plan. The plan shall

include the specification of daily activities and services. The service plan shall be developed within three working days of admission and evaluated semi-annually.

(9) There shall be written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations which require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports will be kept on file.

(10) There shall be a daily activity schedule posted and implemented as designed. (11) Consumers shall receive direct supervision at all times and be encouraged to participate in activities.

(12) There shall be a minimum of 50 square feet of indoor floor space per consumer designated for adult day care during program operational hours.

(a) Hallways, office, storage, kitchens, and bathrooms shall not be included in computation.

(b) All indoor and outdoor areas shall be maintained in a clean, secure and safe condition.

(c) There shall be at least one bathroom designated for consumers use during business hours. For facilities serving more than 10 consumers, there shall be separate male and female bathrooms designated for consumer use.

(13) Staff supervision shall be provided continually when consumers are present.

(a) When eight or fewer consumers are present, one staff person shall provide direct supervision.

(b) When 9-16 consumers are present, two staff shall provide direct supervision at all time. The ratio of one staff per eight consumers will continue progressively.

(c) In all programs where one-half or more of the consumers are diagnosed by a physician's assessment with Alzheimer, or related dementia, the ratio shall be one staff for each six consumers.

R432-270-30. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

KEY: health facilities

May 26, 2004

Notice of Continuation January 31, 2005

26-21-5

26-21-1

R501. Human Services, Administration, Administrative Services, Licensing.**R501-18. Abuse Background Screening.****R501-18-1. Management Information System.****A. Authority**

1. Pursuant to UCA 62A-2-121 and UCA 62A-4a-116, a review of the Management Information System shall be conducted of all licensees and persons associated with the licensee as part of the initial and annual licensing process.

2. Pursuant to UCA 62A-3-311.1 a screening of licensees and persons associated with the licensee shall be conducted through the Adult Protective Services Data Base.

B. Purpose

The purpose of screening, as a part of the licensing process for the Department of Human Services, is to protect children and vulnerable adults from individuals who may have committed acts of abuse, neglect, or exploitation of a child or vulnerable adult.

R501-18-2. Definitions.

A. "Administrative Law Judge" means an employee of the DHS who acts as an independent decision maker who considers the evidence introduced at the hearing and renders a decision based solely on that evidence and all relevant law and policy, herein referred to as ALJ.

B. "Adult" means a person 18 years of age, or older.

C. "Adult Protective Services Worker" means an employee of the Department of Human Services who is designated to conduct abuse or neglect investigations of adults.

D. "Authorized Worker" means the director or designee of a facility or an employee of Department of Human Services.

E. "Authorized DHS Worker" means an employee of the Department of Human Services authorized to have access to the management information system as determined appropriate by the Director, Office of Licensing, Department of Human Services.

F. "Child Protective Service Worker" means an employee of the Department of Human Services who is designated to conduct abuse or neglect investigations of children.

G. "Consumer" means an individual, i.e., client, resident, customer, etc. who receives services from a licensee.

H. "Direct supervision" means that the licensee or person associated with the licensee is never with a client without their supervisor present.

I. "Director" means the person responsible, as delegated by the governing body, for the technical and programmatic aspects of the program. This person should provide direct supervision of the day-to-day aspects of the program operation.

J. "The Division of Aging and Adult Services" means the DHS Division responsible for administering and delivering services for aging and disabled adult residents of Utah, herein referred to as DAAS.

K. "Department of Human Services" means the State Department authorized to provide human services, including licensing, herein referred to as DHS.

L. "The Division of Child and Family Services" means the office of DHS, which operates regional human service offices, herein referred to as DCFS.

M. "The Division of Services for People With Disabilities" means the DHS Division responsible for providing services for people with disabilities, herein referred to as DSPD.

N. "Employee" means a person who performs services for a licensee in a paid or otherwise compensated capacity.

O. "Frequent Visitor" means an adult who visits on a recurring basis in a home where home based care is provided.

P. "GRAMA" means the provisions of the Government Records Access and Management Act that provides for and covers information access and privacy of provider files, as found in UCA 63-2-101, et.seq.

Q. "Human services licensee" or "licensee" means a youth program, resource family home, or a facility or program that provides services, care, secure treatment, inpatient treatment, residential treatment, residential support, adult day care, day treatment, outpatient treatment, domestic violence treatment, child placing services, or social detoxification licensed by the Office of Licensing.

R. "Identifying information" means individual data including, name, date of birth, social security number, and a copy of a driver license, or state identification card, and all aliases.

S. "Management Information system" means the part of the DCFS management information system developed for licensing purposes in accordance with UCA 62A-4a-116 and the Adult Protective Services Database identified in UCA -3-311.1 herein referred to as "management information system"

T. "Member of a Governing Body" means the individuals who comprise the Board of Trustees, Directors or other body who has the ultimate authority and responsibility for the conduct of the licensee.

U. "Owner" means anyone listed in the Articles of Incorporation, Limited Partnership, etc. who has a legal interest in or the legal right to the possession and to direct the affairs of the program.

V. "Office of Administrative Hearings" means the office in DHS which conducts hearings according to the Utah Administrative Procedures Act, herein referred to as OAH.

W. "Office of Licensing" means the office in DHS, authorized by law, to license facilities and programs, herein referred to as OL.

X. "Person Associated with the Licensee" means any owner, director, member of the governing body, employee, provider of care, or volunteer of a human service licensee. Also, any person 18 years or older who resides in a home or frequent visitor to a home where home based care is provided.

Y. "The Provider of Care" means a person who provides direct services for licensee consumers.

Z. Provider" means a public or private agency, owner, director, member of governing body, employee, volunteer, or other individual having a license to provide services to children.

AA. "UAPA" means the Utah Administrative Procedures Act as found in UCA 63-46b-1 through UCA 63-46b-21, herein referred to as UAPA.

BB. "Volunteer" means a person other than a parent or guardian of a child or vulnerable adult receiving care in the facility, who performs services for a licensed facility in a non-paid capacity.

CC. "Vulnerable Adult" means a disabled adult as defined in UCA 62A-3-301 (5); any person 18 years of age or older who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person lacks sufficient understanding or capacity to make or communicate informed decisions concerning his person, or is unable to care for his own personal safety or provide necessities such as food, shelter, clothing or medical care, without which physical injury or illness may occur.

R501-18-3. Procedure for Abuse Background Screening.

A. Prior to hiring an individual, human service programs required to be licensed by DHS shall submit identifying information, including the names, date of birth, social security number, and driver's license or state identification card of all licensees and all persons associated with the licensee. Requests for clearance shall also be resubmitted annually thereafter. The screening will search for a history of abuse, neglect or exploitation of children or vulnerable adults.

B. Human service programs which are home based shall also submit identifying information including, the names, date of birth, social security number and a copy of the driver license

or state identification card of all licensees and persons associated with the licensee for an initial and annual screening of the Management Information System to search for a history of abuse, neglect or exploitation of children or vulnerable adults.

C. If a licensee hires an individual without having the abuse background screening approval, the licensee assumes all liability and is responsible for directly supervising all individuals who have not received the required abuse background screening approval.

R501-18-4. Results of Screening.

A. Approval:

If the name of the licensee or person associated with the licensee does not appear on the management information system, the abuse background screening shall be cleared to provide services in the licensed DHS facility, program, or home serving children or vulnerable adults. Approval is only applicable to this specific facility, program, or home.

B. Comprehensive Review:

If the licensee or person associated with the licensee is identified in the Management Information System as a perpetrator of abuse, neglect or exploitation of children or vulnerable adults, their abuse background screening shall require further review by the DHS in accordance with R501-18-5.

R501-18-5. DHS Comprehensive Review.

A. A comprehensive review shall be conducted by the DHS.

B. The review shall seek to obtain the following information, including input regarding mitigating circumstances:

1. What is the nature of the abuse or neglect?
2. How long ago did the incident occur?
3. What was the severity of the abuse or neglect?
4. Was legal action taken?
5. What steps have been taken to remedy the situation?
6. Based upon the information available, does this person pose a threat to the safety and well-being of consumers of the licensee?

7. The review may also seek additional information from the applicant and other individuals, including all enforcement personnel who completed the investigation and the investigative worker.

C. The DHS shall maintain a record of the review to include the findings of fact and the conclusions of each case.

R501-18-6. Results of the DHS Review.

A. Approval:

1. If the DHS review determines that the licensee or person associated with the licensee does not pose a threat to consumers, the abuse background screening shall be approved.

B. Denial:

1. If, based upon DHS review of the circumstances, there exists credible evidence that the licensee, person associated with the licensee, or person living in the home or frequent visitor to the home poses a threat to the safety and health of the consumers being served by the human service licensee, an abuse background screening shall not be approved.

2. A Notice of Agency Action, herein referred to as NAA, will be sent to the licensee and the person associated with the licensee stating that the application for a abuse background screening approval has been denied.

a. In the case of out of home care, if the provider or applicant is terminated or dismissed within 24 hours, a license may continue.

b. If the licensee or person associated with the licensee is an adult residing in a home or a frequent visitor to a home where home based care is offered, the Office of Licensing shall not issue a license.

R501-18-7. Administrative Hearing.

A licensee or person associated with the licensee who is denied approval may request a hearing within 10 days in accordance with UAPA. The licensee or person associated with the licensee have no right to a UAPA hearing unless there is a disputed issue of fact with the DHS policy.

A. Status Pending the Hearing Results:

1. A licensee or person associated with the licensee requesting a hearing may continue to work under direct supervision until the hearing decision is issued.

2. If the licensee or person associated with the licensee is unable to work under direct supervision, a NAA shall be sent to the licensee stating that their current license has been placed on conditional status pending the results of the hearing.

3. If a person 18 or older residing in a home or a frequent visitor to a home where home based care is provided requests a hearing, a NAA shall be sent to the licensee stating that their current license has been placed on conditional status pending the outcome of the hearing and the person 18 or older living in the home or frequent visitor must never be present when consumers being served by the licensee are in the home pending the hearing decision.

4. The NAA must be posted in a conspicuous place where parents, consumers, or the public will obviously see and be able to read the notice. Programs with multiple service locations will post applicable notices at each of those locations. The Office of Licensing may also notify parents or the public directly, or require the facility or program to do so.

B. Participants of the DHS review shall be available to testify at the hearing.

1. When action to deny, revoke, or suspend a license or deny an abuse background screening is based upon the DHS review, and new evidence not considered by the DHS review is introduced at the hearing, the DHS review representative may request that the case be remanded to the DHS to consider the new evidence. If the DHS determines denial, revocation, or suspension is still warranted after further review, the DHS will notify both the licensee, person associated with the licensee, and the OAH. The OAH may then reconvene the hearing if necessary to complete the record. A final decision will be issued based on all of the evidence in the record.

2. If, after reviewing the new evidence, the DHS recommends that the abuse background screening be approved, the DHS shall advise the licensee and person associated with the licensee. The DHS will then send an appropriate notice to the licensee and person associated with the licensee and a copy to OAH.

R501-18-8. Referral After Licensure.

If a licensee or person associated with a licensee providing services to the program serving children or vulnerable adults who must obtain the abuse background screening approval is substantiated for adult or child abuse, neglect, or exploitation after receiving the abuse background approval, the licensee has five working days to notify the OL. Failure to notify may result in automatic, immediate suspension of the license. When notice of a substantiated abuse record is received, the OL will respond as stated in R501-18-5 above.

R501-18-9. Confidentiality.

The information contained on the Management Information System is confidential and shall only be released as authorized by UCA 62A-4a-412 for children or UCA 62A-3-311.1 for adults.

A. The information in the Management Information System may only be released to individuals approved by the DHS in accordance with UCA 62A-4a-412 or UCA 62A-3-311.1.

B. The information in the Management Information

System will not be given over the telephone. The information must be requested in writing with the proper releases.

C. All documents relating to an abuse background screening must be maintained and stored in accordance with GRAMA.

KEY: licensing, human services

June 16, 1998

62A-2-101 et seq.

Notice of Continuation January 27, 2005

R527. Human Services, Recovery Services.**R527-10. Disclosure of Information to the Office of Recovery Services.****R527-10-1. Disclosure of Health Insurance Information.**

Section 62A-11-104.1(2) requires the office to specify the type of health insurance information required to be disclosed under that section. Upon written request by the office, the following information shall be provided:

1. the availability of health and dental insurance to the employee;
2. the health insurance company name, address, and telephone number;
3. the policy number;
4. the names of those covered and their relationship to the employee;
5. the effective dates of coverage;
6. premium and co-payment amounts, deductibles, and exclusions; and
7. claims history for 24 months prior to the date of request by the office.

R527-10-2. Disclosure of Financial Information to the Office of Recovery Services.

Section 62A-11-104.1 (2) requires the office to specify the type of financial information required to be disclosed under that section. Upon written request by the office, the following documents and information regarding the individual named in the request shall be provided:

1. savings account and checking account numbers and balances;
2. type of loan, loan amount and balance owing;
3. current or last known address;
4. social security number;
5. employer and salary, if known;
6. loan application;
7. all names listed on the account and the signature card;
8. terms of accessibility to the account;
9. former names and aliases;
10. all accounts for that person with the bank, including certificates of deposit, money market accounts, treasury bonds, etc., numbers, names, and amounts;
11. security on loans;
12. account statements;
13. transaction slips;
14. checks deposited or cashed;
15. checks written on account;
16. trusts; and
17. applications to open an account.

KEY: child support, financial information, health insurance
May 18, 1995 **62A-11-104.1(2)**
Notice of Continuation January 6, 2005

R527. Human Services, Recovery Services.**R527-40. Retained Support.****R527-40-1. Retained Support.**

1. The term Retained Support refers to a situation in which the obligee has received child support but failed to forward the payment(s) to ORS.

2. The agent will refer the case to the appropriate Overpayments team with the evidence to support the referral.

3. In computing the amount owed, the obligee will be given credit for the \$50 pass-through payment for any months prior to March, 1997, in which support was retained by the client. For example, if the obligee received and kept a support payment of \$200 in February, 1997, the referral will be made as a \$150 debt. For support payments retained on or after March 1, 1997, no credit shall be given because there will be no pass-through payments for support payments made after February 28, 1997.

KEY: child support**April 8, 1997****Notice of Continuation January 6, 2005****62A-11-107****62A-11-304.1****62A-11-307.1(3)****62A-11-307.2(3)**

R527. Human Services, Recovery Services.**R527-475. State Tax Refund Intercept.****R527-475-1. State Tax Refund Intercept.**

1. Pursuant to Section 59-10-529(1), the Office of Recovery Services/Child Support Services (ORS/CSS) may intercept a state tax refund to recover delinquent child support. For a state tax refund to be intercepted, there must be an administrative or judicial judgment with a balance owing. An installment of child support is considered a judgment for purposes of Section 59-10-529 on and after the date it becomes due as provided in Section 78-45-9.3.

2. State tax refunds intercepted will first be applied to current support, second to Non-IV-A arrearages, and third to satisfy obligations owed to the state and collected by ORS/CSS.

3. ORS/CSS shall mail prior written notice to the obligor who owes past-due support and the unobligated spouse that the state tax refund may be intercepted. The notice shall advise the unobligated spouse of his/her right to receive a portion of the tax refund if the unobligated spouse has earnings and files jointly with the obligor. If the unobligated spouse does not want his/her share of the tax refund to be applied to the obligated spouse's child support debt, the unobligated spouse shall make a written request and submit a copy of the tax return and W-2's to ORS/CSS at any time after prior notice, but in no case later than 25 days after the date ORS/CSS intercepts the tax refund. If W-2s are unavailable, ORS/CSS may use amounts of incomes as reported on the joint tax return. The unobligated spouse's portion of the joint tax refund will be prorated according to the percentage of income reported on the W-2 forms or the joint tax return for the tax year. If the unobligated spouse does not make a written request to ORS/CSS to obtain his share of the tax refund within the specified time limit, ORS/CSS shall not be required to pay any portion of the tax refund to the unobligated spouse.

KEY: child support**July 21, 2004****Notice of Continuation January 6, 2005****59-10-529****78-45-9.3**

R539. Human Services, Services for People with Disabilities.**R539-1. Eligibility.****R539-1-1. Purpose.**

- (1) The purpose of this rule is to provide:
- (a) procedures and standards for the determination of eligibility for Division services as required by Title 62A, Chapter 5, Part-1; and
- (b) notice to Applicants of hearing rights and the hearing process.

R539-1-2. Authority.

- (1) This rule establishes procedures and standards for the determination of eligibility for Division services as required by Title 62A, Chapter 5, Part-1.
- (2) The procedures of this rule constitute the minimum requirements for eligibility for Division funding. Additional procedures may be required to comply with any other governing statute, federal law, or federal regulation.

R539-1-3. Definitions.

- (1) Terms used in this rule are defined in Section 62A-5-101.
- (2) In addition:
- (a) "Agency Action" means an action taken by the Division that denies, defers, or changes services to an Applicant applying for, or a person receiving, Division funding;
- (b) "Applicant" means an individual or a representative of an individual applying for determination of eligibility;
- (c) "Brain Injury" means any acquired injury to the brain and is neurological in nature. This would not include those with deteriorating diseases such as Multiple Sclerosis, muscular dystrophy, Huntington's chorea, ataxia, or cancer, but would include cerebral vascular accident;
- (d) "Department" means the Department of Human Services;
- (e) "Division" means the Division of Services for People with Disabilities;
- (f) "Form" means a standard document required by Division rule or other applicable law;
- (g) "Guardian" means someone appointed by a court to be a substitute decision maker for a person deemed to be incompetent of making informed decisions;
- (h) "Hearing Request" means a written request made by a person or a person's representative for a hearing concerning a denial, deferral or change in service;
- (i) "ICF/MR" means Intermediate Care Facility for Persons with Mental Retardation;
- (j) "Person" means someone who has been found eligible for Division funding for support services due to a disability and who is waiting for or receiving services at the present time;
- (k) "Region" means one of four geographical areas of the State of Utah referred to as central, eastern, northern or western;
- (l) "Region Office" means the place Applicants apply for services and where support coordinators, supervisors and region directors are located;
- (m) "Related Conditions" means a severe, chronic disability that meets the following conditions:
- (i) It is attributable to:
- (A) Cerebral palsy or epilepsy; or
- (B) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons.
- (ii) It is manifest before the person reaches age 22.
- (iii) It is likely to continue indefinitely.
- (iv) It results in substantial functional limitations in three or more of the following areas of major life activity:

- (A) Self-care.
- (B) Understanding and use of language.
- (C) Learning.
- (D) Mobility.
- (E) Self-direction
- (F) Capacity for independent living.
- (n) "Representative" means the person's legal representative including the person's parents if the person is a minor child, a court appointed guardian or a lawyer retained by the person;
- (o) "Resident" is an Applicant or Guardian who is physically present in Utah and provides a statement of intent to reside in Utah;
- (p) "Support" is assistance for portions of a task allowing a person to independently complete other portions of the task or to assume increasingly greater responsibility for performing the task independently;
- (q) "Support Coordinator" means an employee of the Division who completes written documentation of supports and determination of eligibility and support needs;
- (r) "Team Member" means members of the person's circle of support who participate in the planning and delivery of services and supports with the Person. Team members may include the Person applying for or receiving services, his or her parents, Guardian, the support coordinator, friends of the Person, and other professionals and Provider staff working with the Person; and
- (s) "Waiver" means the Medicaid approved plan for a state to provide home and community-based services to persons with disabilities in lieu of institutionalization in a Title XIX facility, the Division administers three such waivers; the developmental disabilities and mental retardation waiver, the brain injury waiver and physical disabilities waiver.

R539-1-4. Non-Waiver Services for People with Mental Retardation or Related Conditions.

- (1) The Division will serve those Applicants who meet the definition of disabled in Subsections 62A-5-101(4)(a)(i) through (iv) and 62A-5-101(4)(b).
- (2) When determining functional limitations in the areas listed below for Applicants ages 7 and older, age appropriate abilities must be considered.
- (a) Self-care - An Applicant who requires assistance, training and/or supervision with eating, dressing, grooming, bathing or toileting.
- (b) Expressive and/or Receptive Language - An Applicant who lacks functional communication skills, requires the use of assistive devices to communicate, or does not demonstrate an understanding of requests or is unable to follow two-step instructions.
- (c) Learning - An Applicant who has a valid diagnosis of mental retardation based on the criteria found in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).
- (d) Mobility - An Applicant with mobility impairment who requires the use of assistive devices to be mobile and who cannot physically self-evacuate from a building during an emergency without the assistive device.
- (e) Capacity for Independent Living - An Applicant (age 7-17) who is unable to locate and use a telephone, cross streets safely, or understand that it is not safe to accept rides, food or money from strangers. An adult who lacks basic survival skills in the areas of shopping, preparing food, housekeeping, or paying bills.
- (f) Self-direction - An Applicant (age 7-17) who is significantly at risk in making age appropriate decisions. An adult who is unable to provide informed consent for medical/health care, personal safety, legal, financial, rehabilitative, or residential issues and/or who has been declared

legally incompetent. A person who is a significant danger to self or others without supervision.

(g) Economic self-sufficiency - (This area is not applicable to children under 18.) An adult who receives disability benefits and who is unable to work more than 20 hours a week or is paid less than minimum wage without employment support.

(3) Applicant must be diagnosed with mental retardation as per 62A-5-101(6) or related conditions.

(a) Applicants who have a primary diagnosis of mental illness, hearing impairment and/or visual impairment, learning disability, behavior disorder, substance abuse or personality disorder do not qualify for services under this rule.

(4) The Applicant, parent of a minor child, or the Applicant's Guardian must be a resident of the State of Utah prior to the Division's final determination of eligibility.

(5) The Applicant or Applicant's Representative shall be provided with information about all service options available through the Division as well as a copy of the Division's Guide to Services.

(6) It is the Applicant's or Applicant's Representative's responsibility to ensure that the appropriate documentation is provided to the intake worker to determine eligibility.

(7) The following documents are required to determine eligibility for non-waivered mental retardation or related conditions services.

(a) A Division Eligibility for Services Form 19 completed by the designated staff within each region office. For children under seven years of age, Eligibility for Services Form 19C, completed by the designated staff within each region office, will be accepted in lieu of the Eligibility for Services Form 19. The staff member will indicate on the Eligibility for Services Form 19C that the child is at risk for substantial functional limitation in three areas of major life activity due to mental retardation or related conditions; that the limitations are likely to continue indefinitely; and what assessment provides the basis of this determination.

(b) Inventory for Client and Agency Planning (ICAP) assessment shall be completed by the Division;

(c) Social History completed by or for the Applicant within one year of the date of application;

(d) Psychological Evaluation provided by the Applicant or, for children under seven years of age, a Developmental Assessment may be used as an alternative; and

(e) Supporting documentation for all functional limitations identified on the Division Eligibility for Services Form 19 or Division Eligibility for Services Form 19C shall be gathered and filed in Applicant's record. Additional supporting documentation shall be required when eligibility is not clearly supported by the above-required documentation. Examples of supporting documentation include, but are not limited to, mental health assessments, educational records, neuropsychological evaluations, and medical health summaries.

(8) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to Applicant or Applicant's Representative indicating that the intake case will be placed in inactive status.

(a) The Applicant or Applicant's Representative may activate the application at anytime thereafter by providing the remaining required information.

(b) The Applicant or Applicant's Representative shall be required to update information.

(9) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, Region staff shall determine the Applicant eligible or ineligible for funding for non-waiver mental retardation or related conditions services within 90 days of receiving the required documentation.

(10) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant

or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522-I, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(11) People receiving services will have their eligibility re-determined on an annual basis. If people are determined to no longer be eligible for services, a transition plan will be developed to discontinue services and ensure health and safety needs are met.

(12) This rule does not apply to Applicants who meet the separate eligibility criteria for physical disability and brain injury outlined in Rule 539-1-6 and Rule 539-1-8 respectively.

(13) Persons not participating in a Waiver or Persons participating in a Waiver but receiving non-Waiver services may have reductions in non-Waiver service packages or be discharged from non-Waiver services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

R539-1-5. Medicaid Waiver for Individuals with Developmental Disabilities or Mental Retardation.

(1) Pursuant to R414-61-2, matching federal funds may be available through the Medicaid Home and Community-Based Waiver for People with Mental Retardation and Developmental Disabilities to provide an array of home and community-based services that an eligible individual needs.

(a) A Notice of Agency Action, Form 522-F, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion to inform of the determination of eligibility or ineligibility for the Waiver. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Health.

(2) Applicants who are found eligible for Waiver funding may choose to participate in the Medicaid Waiver. If the Applicant chooses not to participate in the Waiver, their funding will be equivalent to the State portion of the Waiver budget they would have received had they participated in the Waiver.

R539-1-6. Non-Waivered Services for People with Physical Disabilities.

(1) The Division will serve those Applicants who meet the eligibility requirements for physical disabilities services. To be determined eligible for non-waivered Physical Disabilities Services, the Applicant must:

(a) Have the functional loss of two or more limbs;

(b) Be 18 years of age or older;

(c) Have at least one personal attendant trained or willing to be trained and available to provide support services in a residence that is safe and can accommodate the personnel and equipment (if any) needed to adequately and safely care for the Person; and

(d) Be medically stable, have a physical disability and require in accordance with the Person's physician's written documentation, at least 14 hours per week of personal assistance services in order to remain in the community and prevent unwanted institutionalization.

(e) Have their physician document that the Person's qualifying disability and need for personal assistance services are attested to by a medically determinable physical impairment which the physician expects will last for a continuous period of not less than 12 months and which has resulted in the individual's functional loss of two or more limbs, to the extent that the assistance of another trained person is required in order

to accomplish activities of daily living/instrumental activities of daily living;

(f) Be capable, as certified by a physician, of selecting, training and supervising a personal attendant;

(g) Be capable of managing personal financial and legal affairs; and

(h) Be a resident of the State of Utah.

(2) Applicants seeking non-Waiver funding for physical disabilities services from the Division shall apply directly to the Division's State Office, by submitting a completed Physical Disabilities Services Application Form 3-1 signed by a licensed physician.

(3) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to the Applicant indicating that the intake case will be placed in inactive status.

(a) The Applicant may activate the application at anytime thereafter by providing the remaining required information.

(b) The Applicant shall be required to update information.

(4) When all necessary eligibility documentation is received from the Applicant and the Applicant is determined eligible, the Applicant will be assessed by a Nurse Coordinator, according to the Physical Disabilities Needs Assessment Form 3-2 and the Minimum Data Set-Home and Community-based (MDS-HC), and given a score prior to placing a Person into services. The Physical Disabilities Nurse Coordinator shall:

(a) use the Physical Disabilities Needs Assessment Form 3-2 to evaluate each Person's level of need;

(b) determine and prioritize needs scores;

(c) rank order the needs scores for every Person eligible for service, and

(d) if funding is unavailable, enter the Person's name and score on the Physical Disabilities wait list.

(5) The Physical Disabilities Nurse Coordinator assures that the needs assessment score and ranking remain current by updating the needs assessment score as necessary. A Person's ranking may change as needs assessments are completed for new Applicants found to be eligible for services.

(6) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522-I, shall inform the Applicant of eligibility determination and placement on the pending list. The Applicant may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(7) This does not apply to Applicants who meet the separate eligibility criteria for developmental disability/mental retardation and brain injury outlined in Rule 539-1-4 and Rule 539-1-8 respectively.

(8) Persons not participating in a waiver or Persons participating in a waiver but receiving non-waiver services may have reductions in service packages or be discharged from services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

R539-1-7. Medicaid Waiver for Individuals with Physical Disabilities.

(1) Pursuant to R414-61-2, matching federal funds may be available through the Medicaid Home and Community-Based Waiver for People with Physical Disabilities to provide an array of home and community-based services that an eligible individual needs.

(2) Applicants who are found eligible for the Home and Community-Based Waiver for People with Physical Disabilities funding but who choose not to participate in the Home and Community-Based Waiver for People with Physical Disabilities, will receive only the state paid portion of services.

R539-1-8. Non-Waiver Services for People with Brain Injury.

(1) The Division will serve those Applicants who meet the eligibility requirements for brain injury services. To be determined eligible for non-waiver brain injury services the Applicant must:

(a) have a documented acquired neurological brain injury;

(b) Be 18 years of age or older;

(c) score between 40 and 120 on the Brain Injury Comprehensive Assessment Form 4-1.

(2) Applicants with mental illness, substance abuse or deteriorating diseases like Multiple Sclerosis, Muscular Dystrophy, Huntington's Chorea, Ataxia or Cancer as a primary diagnosis are ineligible for these non-waiver services.

(3) Applicants with mental retardation or related conditions are ineligible for these non-waiver services.

(4) The Applicant shall be provided with information concerning service options available through the Division and a copy of the Division's Guide to Services.

(5) The Applicant or the Applicant's Guardian must be a resident of the State of Utah prior to the Division's final determination of eligibility.

(6) It is the Applicant's or Applicant's Representative's responsibility to provide the intake worker with documentation of brain injury, signed by a licensed physician;

(7) The intake worker will complete or compile the following documents:

(a) Brain Injury Intake, Screening and Comprehensive Assessment Form 4-1, Part I through Part VII; and

(b) Brain Injury Social History Summary Form 824BI, completed or updated within one year of eligibility determination;

(8) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to the Applicant or the Applicant's Representative indicating that the intake case will be placed in inactive status.

(a) The Applicant or Applicant's Representative may activate the application at anytime thereafter by providing the remaining required information.

(b) The Applicant or Applicant's Representative shall be required to update information.

(9) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, region staff shall determine the Applicant eligible or ineligible for funding for brain injury supports.

(10) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

R539-1-9. Medicaid Waiver for Individuals with Acquired Brain Injury.

(1) Pursuant to R414-61-2, matching federal funds may be available through the Medicaid Home and Community-Based Waiver for People with Acquired Brain Injury to provide an array of home and community-based services that an eligible individual needs.

(2) Applicants who are found eligible for the Home and Community-Based Waiver for People with Brain Injury funding but who choose not to participate in the Home and Community-Based Waiver for People with Brain Injury, will receive only the state paid portion of services.

(3) A Notice of Agency Action, Form 522-F, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion to inform of the determination of eligibility or ineligibility for the Waiver. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Health.

R539-1-10. Graduated Fee Schedule.

(1) Pursuant to Utah Code 62A-5-105 the Division establishes a graduated fee schedule for use in assessing fees to individuals. The graduated fee schedule shall be applied to Persons who do not meet the Medicaid eligibility requirements listed in the Developmental Disabilities/Mental Retardation Waiver, the Traumatic Brain Injury Waiver or the Physical Disabilities Waiver. Family size and gross income shall be used to determine the fee. This rule does not apply to Persons who qualify for Medicaid waiver funding but who choose to have funding reduced to the state match per R539-1-5(2), R539-1-7(2), and R539-1-9(2) rather than participate in the Medicaid Waiver.

(a) Persons who do not participate in a Medicaid Waiver who do not meet Waiver level of care must apply for a Medicaid Card within 30 days of receiving notice of this rule. Persons who do not participate in a Medicaid Waiver who meet Waiver level of care must apply for determination of financial eligibility using Form 927 within 30 days of receiving notice of this rule. Persons who do not participate in a Medicaid Waiver shall provide the Support Coordinator or Nurse Coordinator with the financial determination letter within 10 days of the receipt of such documentation. Persons who do not participate in a Medicaid Waiver and who fail to comply with these requirements shall have funding reduced to the state match rate.

(b) Persons who do not participate in a Medicaid Waiver due to financial eligibility, must be reduced to the state match rate.

(c) Persons who only meet the general eligibility requirements, as per R539-1-4, R539-1-6, and R539-1-8, must report all cash assets (stocks, bonds, certified deposits, savings, checking and trust amounts), annual income and number of family members living together using Division Form 2-1G. Persons with Discretionary Trusts are exempt from the Graduated Fee Schedule as per Subsection 62A-5-110(6). The Form 2-1G shall be reviewed at the time of the annual planning meeting. The Person / family shall return Form 2-1G to the support coordinator prior to delivery of new services. Persons / families currently receiving services will have 60 days from receiving notice of this rule to return a completed and signed Form 2-1G to the Division. Persons / families who complete the Division Graduated Fee Assessment Form 2-1G shall be assessed a fee no more than 3% of their income. If the form is not received within 60 days of receiving notice of this rule, the Person will have funding reduced to the state match rate.

(d) Cash assets, income and number of family members will be used to calculate available income (using the formula: (assets + income) / by the total number of family members = available income). Available income will be used to determine the fee percent (0 percent to 3 percent). The annual fee amount will be calculated by multiplying available income by the fee percent. Persons who do not participate in a Medicaid Waiver, who only meet general eligibility requirements, and have available incomes below 300 percent of the poverty level will not be assessed a fee. Persons with available incomes between 300 and 399 percent of poverty will be assessed a 1 percent fee, Persons with available incomes between 400 and 499 percent of poverty will be assessed a 2 percent fee and those with available income over 500 percent of poverty will be assessed a 3 percent fee.

(e) No fee shall be assessed for a Person who does not

participate in a Medicaid Waiver and who receives funding for less than 31 percent of their assessed need. A multiplier shall be applied to the fee of Persons who do not participate in a Medicaid Waiver and who receive 31 to 100% percent of their assessed need.

(f) If a Person's annual allocation is at the state match rate, they will not be assessed a fee.

(g) Only one fee will be assessed per family, regardless of the number of children in the family receiving services. Persons who do not participate in a Medicaid Waiver under the age of 18 shall be assessed a fee based upon parent income. Persons who do not participate in a Medicaid Waiver over the age of 18 shall be assessed a fee based upon individual income and assets.

(h) If the Person is assessed a fee, the Person shall pay the Division of Services for People with Disabilities or designee 1/12th of the annual fee by the end of each month, beginning the following month after the notice of this rule was sent to the Person.

(i) If the Person fails to pay the fee for six months, the Division may reduce the Person's next year annual allocation to recover the amount due. If a Person can show good cause why the fee cannot be paid, the Division Director may grant exceptions on a case-by-case basis.

KEY: human services, disability

January 25, 2005

Notice of Continuation December 18, 2002

62A-5-103

62A-5-105

R590. Insurance, Administration.**R590-88. Prohibited Transactions Between Agents And Unauthorized Multiple Employer Trusts.****R590-88-1. Purpose and Authority.**

It is the responsibility of the Utah State Insurance Department to assist with the maintenance of a fair and honest insurance market and to protect the residents of this state against acts by persons attempting to evade the insurance laws of the state. The insurance market is subject to regulation to prevent, among other things, unfair competition from persons and entities not authorized to conduct an insurance business.

This Rule is issued pursuant to the authority vested in the Commissioner under Sections 31A-2-201, and 31A-23-302, Utah Code Annotated.

R590-88-2. Background.

In the State of Utah entities representing themselves as Multiple Employer Trusts (METs) under the Employee Retirement Income Security Act of 1974 (ERISA) are undertaking contractual obligations to provide life, accident and health, disability, or other related insurance-type benefits. In many cases these programs are not insured by an insurer licensed in the State of Utah. These programs and entities appear to be providing insurance benefits, although a MET may not refer to such benefits as "insurance."

METs are not licensed to provide insurance benefits under Section 31A-4-103, Utah Code Annotated. METs do not submit reports of financial condition to the Utah State Insurance Department or remit premium taxes on business written. Furthermore, most METs do not meet certain minimum capital and surplus requirements of the Utah insurance laws which are designed to provide protection against an insolvency. A MET may offer certain annuity or insurance-type benefits to persons because of their status as employees. These benefits include those common to the following types of insurance: medical, surgical, hospital, sickness, accident, disability, death, retirement income, income deferral.

METs are required to file annual reports with the United States Department of Labor. The annual report should state the extent to which a MET's annuity or insurance-type benefits are provided by an insurance carrier.

R590-88-3. Definitions.

(A) Multiple Employer Trust (MET) - An entity is herein referred to as a Multiple Employer Trust (MET) if that entity is providing insurance type benefits to employees of more than one employer, and that entity is not an insurance company authorized to do business in the state of Utah.

(B) Unauthorized Multiple Employer Trust - An entity purporting to be a Multiple Employer Trust (MET) is hereby defined as an Unauthorized Multiple Employer Trust if:

(1) The MET has not received an opinion letter from the United States Department of Labor recognizing the entity as a qualified trust under ERISA, or

(2) The benefits offered are not fully insured by an insurer licensed to do business in the State of Utah and no opinion letter recognizing the entity as a qualified ERISA plan has been issued from the U.S. Department of Labor.

(C) An unauthorized MET is defined to be an unauthorized insurer. Any claimed multiple employer trust which does not fulfill the requirements of a multiemployer plan as defined by ERISA, 29 U.S.C. 1001 et seq., as amended, is also defined to be an unauthorized MET and consequently an unauthorized insurer.

(D) All other definitions are the same as are provided in Chapter 1, Title 31A, Utah Code Annotated.

R590-88-4. Prohibited Transactions.

When the Insurance Department finds evidence that a

person (as defined in Section 31A-1-301, Utah Code Annotated) is engaging, or has engaged, in one or more of the following practices, that person's actions will be treated as prima facie evidence that the person has shown himself to be incompetent, untrustworthy, and/or a source of injury to the public pursuant to Section 31A-23-216, Utah Code Annotated. These practices are:

(A) Accepting commissions, salaries, or any other remuneration for placing business with or soliciting membership in an unauthorized MET, whether or not the arrangement involves a formal contract or is called a commission.

(B) Using the status or title as a licensed insurance agent in any way in connection with placement of business with an unauthorized MET. This shall include, but not be limited to:

(1) Using an agent's letterhead;

(2) Using an agent's office;

(3) Using customer lists or contracts developed as an agent; and

(4) Representing in any manner that the person placing this business is a licensed insurance agent.

R590-88-5. Sanctions.

Agents found to be engaging in, or to have engaged in, the prohibited transactions with unauthorized METs set forth under Section 4 of this Rule are subject to one or more of the following sanctions:

(A) Revocation or suspension of the agent's license and/or the imposition of a fine pursuant to Section 31A-23-216 Utah Code Annotated; and

(B) Recovery of any claims or losses pursuant to Section 31A-15-105, Utah Code Annotated; and

(C) Any other sanctions provided by law including those found in Section 31A-2-308, U.C.A.

R590-88-6. Inquiries.

In the event any person wishes to determine if a particular entity is a licensed insurer in the State of Utah, an inquiry should be made to the Insurance Department. Inquiries should be addressed as follows: Commissioner of Insurance, Utah State Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114, Attention: Insurer Licensing Division. Inquiries may also be made by telephone to the Insurance Department at (801) 538-3800.

R590-88-7. Severability.

If any provision or clause of this Rule or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the Rule which can be given effect without the invalid provision or application, and to this end the provisions of this Rule are declared to be severable.

KEY: insurance law**1989****Notice of Continuation January 31, 2005****31A-2-101****31A-2-201****31A-2-211**

R590. Insurance, Administration.**R590-128. Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)****R590-128-1. Authority.**

This rule is promulgated pursuant to Section 31A-23-302(3), which provides guidelines for determining what is unfair discrimination, and Section 31A-23-302(8) which allows the commissioner to make rules defining unfair marketing acts or practices.

R590-128-2. Purpose.

The purpose of this rule is to identify certain practices which the commissioner finds are unfair and discriminatory.

R590-128-3. Scope and Applicability.

This rule applies to all automobile insurance contracts delivered or issued for delivery in this state on or after the effective date of this rule.

R590-128-4. Rule.

(1) The following are hereby identified as acts or practices which, when applied because of failure to maintain automobile insurance for a period of time prior to the issuance of an insurance policy, constitute unfair discrimination among members of the same class:

- (a) refusing to insure or refusing to continue to insure;
- (b) limiting the amount, extent or kinds of coverage available;
- (c) charging applicants different rates for the same coverage by either surcharging one applicant who did not have prior insurance or crediting another applicant who did have prior insurance; or
- (d) designating the applicant as a non-standard, sub-standard, or otherwise worse than average risk for the purpose of placing the applicant in a specific company or rating tier.

(2) In the application of Subsection (1) the following shall apply:

- (a) an insurer may reject or surcharge an applicant if the insurer can demonstrate through driving records or other objective means including, but not limited to, a statement from the applicant, that the applicant has at any time in the immediately prior three years been operating a motor vehicle in violation of any state's compulsory auto insurance laws; or
- (b) an insurer may reject or surcharge an applicant if the applicant represents that prior insurance existed, but fails to provide evidence to the insurer, or fails to assist the insurer in securing evidence that said prior insurance actually existed.

(3) Inadvertent lapses in coverage of up to 30 days due to the applicant's reasonable reliance on information from an insurance agent or company that the applicant was insured are not considered to be a failure to maintain automobile insurance for the purposes of this rule.

R590-128-5. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

KEY: insurance companies

June 16, 1998

31A-23-302

Notice of Continuation January 31, 2005

R590. Insurance, Administration.

R590-132. Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection.

R590-132-1. Authority, Purpose and Scope.

This rule is promulgated by the Insurance Commissioner pursuant to the authority provided under Subsections 31A-2-201(3) and (4), General Duties and Powers.

The purpose of this rule is to identify and restrict certain underwriting, classification, or declination practices regarding HIV infection, that the commissioner finds are or would be unfairly discriminatory if engaged in. This rule also provides guidelines for the confidentiality of AIDS related testing, which, if not followed, would be unfairly discriminatory or hazardous to members of the insuring public.

This rule applies to every licensee authorized to engage in the business of insurance in Utah under Title 31A of the Utah Code.

R590-132-2. Definitions.

For the purpose of this rule, the commissioner adopts the definitions set forth in Section 31A-1-301 and in addition, the following:

A. HIV infection is defined as the presence of Human Immunodeficiency Virus (HIV) in a person as detected by the following:

- 1. Presence of antibodies to HIV, verified by appropriate confirmatory tests.
- 2. Presence of HIV antigen.
- 3. Isolation of HIV.
- 4. Demonstration of HIV proviral DNA.

R590-132-3. Rule.

A. Persons with HIV infection will not be singled out for either unfairly discriminatory or preferential treatment for insurance purposes.

B. To properly classify risks related to covering prospective insureds, insurers may require reasonable testing. Application questions must conform to the following guidelines:

1. No inquiry in an application for health or life insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation.

2. Sexual orientation may not be used in the underwriting process or in the determination of insurability.

C. When used, the testing of insurance applicants must not be administered on an unfair basis. If a prospective insured is to be declined or rated substandard because of HIV infection, such action must be based on appropriate confirmatory tests.

D. Notice and Consent. No person engaged in the business of insurance shall require an HIV test of an individual in connection with an application for insurance unless the individual signs a written release on a form which contains the following information:

1. A statement of the purpose, content, use and meaning of the test.

2. A statement regarding disclosure of the test results, including information explaining the effect of releasing information to a person directly engaged in the business of insurance. The applicant should be advised that the insurer may disclose test results to others involved in the underwriting and claims review processes. If the HIV test is positive, the results will be reported by those conducting the test or providers receiving test results to the local health department. If the applicant does not designate a physician or other health care provider, the insurer shall report a positive test result to the local health department. If the insurer is a member of the Medical Information Bureau ("MIB, Inc.") the insurer may report the test results to MIB, Inc. in a generic code which signifies only non-

specific test abnormalities.

3. A provision where the applicant directs that any positive screen results be reported to a designated health care professional of his/her choice for post-test counseling.

For purposes of this section, insurers will use the following notice and consent disclosure form or a form that contains similar language. Such form is not considered part of the policy or policy application.

TABLE

Illustrative HIV Testing Informed Consent Form

EXAMINER	INSURER
ADDRESS	ADDRESS
.....
.....

NOTICE AND CONSENT FOR TESTING WHICH MAY INCLUDE AIDS VIRUS (HIV) ANTIBODY/ANTIGEN TESTING

To determine your insurability, the insurer named above (the insurer) is requesting that you provide a sample of your blood and/or other bodily fluid for testing and analysis. In order to adequately perform all testing procedures, it may be necessary for you to provide a sample of more than one of these bodily fluids. All tests will be performed by a licensed laboratory.

Unless precluded by law, tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. The HIV antibody test performed is actually a series of tests done by a medically accepted procedure. The HIV antigen test directly identifies AIDS viral particles. These tests are extremely reliable. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats), screening for liver or kidney disorders, diabetes, immune disorders, and other physical conditions.

All test results will be treated confidentially. They will be reported by the laboratory to the insurer. When necessary for business reasons in connection with insurance you have or had applied for with the insurer, the insurer may disclose test results to others such as its affiliates, reinsurers, employees, or contractors. If the insurer is a member of the Medical Information Bureau (MIB, Inc.), and should the insurer request an additional sample of bodily fluid for further testing, and you choose to decline that request, your declination to be tested will be reported to the MIB, Inc. Regardless of the number of tests requested, if the final test results for HIV antibodies/antigens are other than normal, the insurer will report to the MIB, Inc. a generic code which signifies only a non-specific abnormality. If your HIV test is normal, no report will be made about it to the MIB, Inc. Other test results may be reported to the MIB, Inc. in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There will be no other disclosure of test results or even that the tests have been done except as may be required or permitted by law or as authorized by you.

If your HIV test results are normal, no routine notification will be sent to you. If the HIV test results are other than normal, the insurer will contact you. The insurer may also contact you if there are other abnormal test results which, in the insurer's opinion, are significant. The insurer may ask you for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the results. The laboratory, physician or other health care provider will report positive test results to the Health Department. If you have not designated a physician or other health care provider to receive disclosure of positive test results, the insurer will report positive test results to the health department.

Positive HIV antibodies/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS-related conditions. Federal authorities say that persons who are HIV antibody/antigen positive should be considered infected with the AIDS virus and capable of infecting others.

Positive HIV antibody or antigen test results or other significant abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.

I have read and I understand this notice and consent for testing

which may include HIV antibodies/antigen testing. I voluntarily consent to the withdrawal from me of blood and/or other bodily fluid, the testing of that blood and/or other bodily fluid, and the disclosure of the test results as described above.

I understand that I have the right to request and receive a copy of this authorization. A photocopy of this form will be as valid as the original.

.....
Proposed Insured Date of Birth

.....
Signature of Proposed Insured Date

.....
State of Residence

.....
Designated Physician or Health Care Provider
that is to Receive Positive Test Results

.....
Street Address

.....
City State Zip

R590-132-4. Dissemination.

Each insurer is instructed to distribute a copy of this rule or an equivalent summary to all personnel engaged in activities requiring knowledge of this rule, and to instruct them as to its scope and operation.

R590-132-5. Penalties.

Any licensee that violates this rule will be subject to the forfeiture provisions set forth in Section 31A-2-308 and 31A-23-216.

R590-132-6. Confidentiality.

Except as outlined in R590-132-3(D) above, all positive or indeterminate records of the applicant held by the licensee that refer to the HIV status shall be held as confidential records under restricted access and will not be re-released unless re-disclosure is specifically authorized by the applicant.

Re-release and Re-disclosure are required when the test results are to be used for purposes other than those included in the initial release.

R590-132-7. Severability.

If any provision of this rule or its application to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.

**KEY: insurance law
March 1, 1998**

31A-2-201

Notice of Continuation January 31, 2005

R590. Insurance, Administration.

R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form.

R590-196-1. Purpose.

This rule establishes uniform fee and collateral standards for bail bond surety business in the State of Utah.

R590-196-2. Authority.

This rule is promulgated pursuant to Section 31A-35-104 which requires the commissioner to adopt by rule standards of conduct for bail bond surety business.

R590-196-3. Scope and Applicability.

This rule applies to any person engaged in bail bond surety business.

R590-196-4. Fee Standards.

- (1) Initial bail bond fees.
 - (a) Bail bond premium:
 - (i) minimum fee: none;
 - (ii) maximum fee: not to exceed 20% of bond amount.
 - (b) Document preparation fee may not exceed \$20 per set of forms pertaining to one bail bond.
 - (c) Credit card fee may not exceed 5% of the amount charged to the credit card.
- (2) Other fees.
 - (a) These fees are limited to actual and reasonable expenses incurred by the bail bond surety because:
 - (i) the defendant fails to appear before the court at any designated dates and times;
 - (ii) the defendant fails to comply with the court order; or
 - (iii) the defendant or the co-signer fails to comply with the terms of the bail bond agreement and any promissory notes pertaining to that agreement.
 - (b) Reasonable expense fee for mileage is the Internal Revenue Service standard for business mileage.
 - (c) Apprehension expenses such as meals, lodging, commercial travel, communications, whether or not the defendant is apprehended, are limited to actual expenses incurred and must be reasonable, i.e., meals at mid-range restaurants, lodging at mid-range hotels, commercial travel in coach class, etc.
 - (d) Reasonable collateral expense fees:
 - (i) actual expenses to obtain collateral; and
 - (ii) storage expenses if in a secured storage area, limited to actual expenses.

R590-196-5. Collateral Standards.

- (1) Collateral may be provided to secure bail bond fees, the face amount of the bail bond issued, or both.
- (2) If the bail bond surety accepts the same collateral to secure the bail bond fees and the face amount of the bail bond issued, then, in the event of a failure to pay bail bond fees when due, the collateral may not be converted until the bail bond is exonerated or judgment entered against the surety and the depositor has been given no less than 15 days to pay any bond fees owing.
- (3) If the bail bond surety accepts different collateral to secure the bail bond fee and the face amount of the bail bond issued then:
 - (i) the collateral securing the bail bond fees may not be converted until payment has been defaulted under the terms of the promissory note for those fees, and the depositor of the collateral has been given no less than 15 days to make the required payment;
 - (ii) the collateral securing the face amount of the bail bond issued may not be converted until the bond is exonerated or judgment entered against the surety and the depositor of the collateral has been given no less than 15 days to reimburse the

bail bond surety for any amounts owed to the bail bond surety.

(4) The bail bond surety, its agents taking possession of collateral, or both, will hold said collateral as a fiduciary until such time as ownership of the collateral passes to the bail bond surety.

(5) Collateral held as a fiduciary may not be used by the bail bond surety or its agents without the specific written permission of the depositor of the collateral.

(6) Should proceeds from converted collateral exceed the outstanding balance due, the bail bond surety will return the excess to the depositor of the collateral.

(7) Notice under the rule shall be deemed proper if it is sent via first class mail to the address provided by the depositor of the collateral.

R590-196-6. Disclosure Form.

The bail bond surety and its agents will use the following disclosure form or a form that contains similar language.

TABLE

XYZ Bail Bonds Disclosure Form
 1234 South 1234 East, Salt Lake City, UT 84444:
 801-123-4567 fax: 801-098-7654

Defendant.....	Co-Signer.....	
Court.....	Charge.....	
Bond amount \$.....	Bond number.....	
Initial Fees, non-refundable.		
....bond premium, maximum: no more than 20%;		
minimum: none.		\$.....
....document preparation, not to exceed \$20		
per set of bond forms.		\$.....
....credit card fee, not to exceed 5% of amount		
charged to credit card		\$.....
	total initial fees	\$.....

Additional Fees.

Limited to actual and reasonable expenses required because the defendant fails to appear before the court at any designated times, or fails to comply with the court order, or fails to comply with the terms of the bail bond agreement or any promissory notes pertaining to that agreement. The following are some reasonable expense fees:

- (1) reasonable expense fee for mileage is IRS mileage reimbursement standard for business miles;
- (2) reasonable apprehension expense fees include meals at mid-range restaurants, lodging at mid-range hotels, transportation at no more than coach fares; and
- (3) reasonable collateral expense fees: actual expenses to obtain collateral and, actual storage expenses, if collateral is in a secured storage area.

Grounds for revocation of bond.

Should the defendant violate any of the following, the defendant shall be subject to immediate bond revocation and the defendant, or the co-signer, or both, shall be subject to all the costs incurred to return the defendant to the court. Grounds for revocation include the following:

- (a) the defendant or co-signer providing materially false information on bail bond application;
- (b) the court's increasing the amount of bail beyond sound underwriting criteria employed by the bail bond agent or bail bond surety;
- (c) a material and detrimental change in the collateral posted by the defendant or one acting on defendant's behalf;
- (d) the defendant changes their address or telephone number or employer without giving reasonable notice to the bail bond agent or bail bond surety;
- (e) the defendant is arrested for another crime, other than a minor traffic violation, while on bail;
- (f) the defendant is back in jail in any jurisdiction and revocations can be served prior to the defendant being released;
- (g) failure by the defendant to appear in court at any appointed times;
- (h) finding of guilt against the defendant by a court of competent jurisdiction;
- (i) a request by the co-signer based on reasons (a) through (h) above. Items (a) through (h) pertain to the defendant; items (a), (c), (e) (g) and (i) pertain to co-signers, if any.

Collateral.

The following has been given as collateral to guarantee all court appearances of the defendant until the bond is exonerated:

.....
.....
.....

The following has been given as collateral to guarantee payment of bond fees:

.....
In the event judgment is entered against the surety or the bonding fee is not paid according to the terms of the bail bond agreement and its promissory note, if any, following written notice to the undersigned of such judgment or non-payment, the undersigned authorize XYZ Bail Bonds to convert the appropriate collateral to collect the judgment or the unpaid bond fees. Should proceeds from the sale of the appropriate collateral be insufficient to cover the outstanding balance due, the defendant, the co-signer, or both, agree to be personally liable for the difference. Should proceeds from the sale exceed the outstanding balance, the difference will be returned to the depositor of the collateral. The depositor's signature below constitutes acknowledgment of a Bill of Sale for the collateral. The depositor accepts this agreement as a bill of sale for the collateral.

By signing below I certify that I have read and understand this disclosure form, the bail bond agreement and its attached promissory note, if any. I certify under penalty of perjury that all information given to XYZ Bail Bonds verbally and in writing on all documents relevant to this bond are true and accurate. The co-signer agrees that should the co-signer request XYZ Bail Bonds to revoke the defendant's bond, with or without probable cause, the co-signer will be responsible to pay XYZ Bail Bonds and their agents for the time returning the defendant to jail at the rates stated above in additional fees. If requested by the co-signer to revoke the bond without probable cause, the co-signer will be responsible to reimburse the defendant his bond fees.

Date.....Defendant.....
Date.....Co-signer.....
Date.....Depositor.....
I,....., agent of XYZ Bail Bonds, certify that I have given a copy of all documents pertaining to this bail bond agreement to the defendant, the co-signer, the depositor, or any of the above, at the time and date said bail bond agreement was executed.
Date.....Bail Bond Agent.....

R590-196-7. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-196-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

KEY: insurance

June 8, 2000

31A-35-104

Notice of Continuation January 7, 2005

R595. Judicial Conduct Commission, Administration.**R595-1. General Provisions.****R595-1-1. Definitions.**

In addition to terms defined in Section 78-8-101 et seq. of the Utah Code:

A. "Chair" means the chair of the Commission and includes the vice chair or acting chair.

B. "Confidential hearing" means a hearing at which allegations of misconduct or disability are presented to a hearing panel or masters for resolution.

C. "Contract investigator" means a person with whom a contract exists for the performance of investigative services.

D. "Examiner" means a lawyer designated by the Commission to present evidence at a confidential hearing.

E. "Formal charges" means the specific allegations of misconduct or disability identified by the Commission at the conclusion of a full investigation and upon which further proceedings will be conducted.

F. "Formal complaint" means the written document that formally charges a judge with misconduct or disability.

G. "Full investigation" means that portion of an investigation in which the judge is invited to respond in writing to specific allegations identified by the Commission. A full investigation may also include, but is not limited to: examination of documents, correspondence, court records, transcripts or tapes; interviews of the complainant, counsel, court staff, the judge and other witnesses; and inspection of physical facilities or objects.

H. "Hearing panel" means a panel of at least six members of the Commission designated to conduct a confidential hearing.

I. "Masters" means the special masters appointed by the Commission to conduct a confidential hearing.

J. "Misconduct" means a violation of the Utah Code of Judicial Conduct or Section 78-8-103(a), (b), (c), or (e) of the Utah Code.

K. "Preliminary investigation" means that portion of an investigation conducted upon receipt of a written complaint or upon authorization of the Commission. A preliminary investigation may include, but is not limited to: examination of documents, correspondence, court records, transcripts or tapes; interviews of the complainant, counsel, court staff and other witnesses; and inspection of physical facilities or objects.

L. "Presiding master" means the special master designated to preside over any hearing conducted by masters.

M. "Proceeding" means all steps in the Commission's discipline and disability process.

N. "Record" means all documents required by statute to be submitted to the Utah Supreme Court.

O. "Supreme Court" means the Utah Supreme Court.

R595-1-2. Jurisdiction.

A. Judges. The Commission has jurisdiction over judges in evaluating allegations that misconduct occurred before or during service as a judge and in evaluating allegations of disability during service as a judge.

B. Former judges. The Commission has continuing jurisdiction over former judges regarding allegations that misconduct occurred during the judicial appointment process or during service as a judge if a complaint is received before the judge left office.

R595-1-3. Confidentiality.

Confidentiality of Commission proceedings and records is governed by the Constitution of Utah and applicable state statute.

R595-1-4. Ex Parte Communications.

Commissioners shall not, individually or collectively, engage in ex parte communications about proceedings with

complainants, witnesses, or judges.

R595-1-5. Attendance at Commission Meetings.

Commission members may attend Commission meetings in person, by telephone, by videoconference, or by other means approved in advance by the chair.

R595-1-6. Records Classification and Retention.

(Reserved.)

KEY: judicial conduct commission

February 1, 2005

Art. VIII, Sec. 13
78-8-101 through 78-8-108

R595. Judicial Conduct Commission, Administration.**R595-2. Administration.****R595-2-1. Executive Committee.**

A. There is hereby established an executive committee of the Commission, comprised of the following three members of the Commission, all elected by the Commission: one legislator, one judge or member of the Utah State Bar, and one public member. The Commission chair shall serve as one of the members of, and as chair of, the executive committee.

B. The terms of committee members shall be two years. Committee members may be elected to subsequent terms.

C. The executive committee may:

1. recommend to the Commission the hiring or termination of the executive director;
2. hire and terminate the employment of other Commission staff;
3. approve the contracts of contract investigators;
4. recommend to the Commission salary increases for the executive director and other Commission staff; and
5. perform other administrative duties as assigned by the Commission.

R595-2-2. Terms of Commission Chair and Vice Chair.

The terms of the Commission chair and vice chair shall be two years. The chair and vice chair may be elected to subsequent terms.

R595-2-3. Duties of Executive Director.

A. The executive director shall:

1. receive, acknowledge receipt of, and review complaints, refer complaints as provided by statute, conduct preliminary investigations, notify complainants about the status and disposition of their complaints, make recommendations to the Commission regarding further proceedings or the disposition of complaints, conduct full investigations or file formal charges when directed to do so by the Commission, and act as examiner;
2. maintain records of the Commission's operations and actions;
3. compile statistics to aid in the administration of the Commission's operations and actions;
4. prepare and distribute an annual report of the Commission's operations and actions;
5. prepare the Commission's budget for submission to the Commission and the Legislature, and administer the funds;
6. subject to the approval of the Commission or the executive committee, hire and terminate Commission staff and enter into contracts with contract investigators;
7. direct the operations of the Commission's office, and supervise other members of the Commission's staff and contract investigators;
8. with the Commission's approval, engage experts in connection with proceedings;
9. make available to the public, the laws, rules and procedures affecting the Commission and its operations;
10. consider requests for extensions of time periods established by Commission rule, and may, upon a showing of good cause, grant such requests for a period of time not to exceed 60 days in the aggregate; and
11. perform other duties at the direction of the Commission.

B. Subject to the duty to direct and supervise, the executive director may delegate any of the foregoing duties to other members of the Commission's staff or contract investigators.

**KEY: judicial conduct commission
February 1, 2005**

**Art. VIII, Sec. 13
78-8-101 through 78-8-108**

R595. Judicial Conduct Commission, Administration.**R595-3. Procedure.****R595-3-1. Proof.**

Formal charges shall be established by a preponderance of the evidence.

R595-3-2. Applicability of Other Rules.

Except as otherwise provided in Commission rule, the Utah Rules of Evidence apply in all proceedings. Except as otherwise provided in Commission rule, the Utah Rules of Civil Procedure do not apply in Commission proceedings.

R595-3-3. Right to Counsel.

A judge shall be entitled to retain and have the assistance of counsel at every stage of the proceedings.

R595-3-4. Service.

Service of a formal complaint shall be made by personal service or certified mail upon the judge or judge's counsel. Service of all other papers or notices shall be made by regular mail with the envelope marked "confidential."

R595-3-5. Subpoena Power.

The issuance and service of subpoenas for Commission proceedings is governed by Utah Code Ann. Section 78-8-108.

R595-3-6. Effect of Judge's Resignation or Retirement during Proceedings.

If a judge resigns or retires during the proceedings, the Commission shall determine whether to proceed or dismiss the proceedings.

R595-3-7. Investigation.**A. Preliminary Investigation.**

1. The executive director shall review all written complaints, and shall, regardless of whether the allegations contained therein would constitute misconduct or disability if true, conduct a preliminary investigation.

2. When any other complaint is received, the executive director shall summarize and submit the complaint in writing to the Commission, but shall not conduct a preliminary investigation unless authorized to do so by the Commission.

3. The scope of the preliminary investigation shall be determined by Commission rule and the assigned investigator, subject to the direction of the executive director.

4. Upon completion of the preliminary investigation, the investigator shall recommend a full investigation if there is reasonable cause to support a finding of misconduct or disability. In all other cases, the investigator shall recommend that the proceedings be dismissed.

B. Full Investigation. Within ten days after a full investigation is authorized by the Commission, the executive director shall notify the judge that a full investigation has been authorized. The notice shall:

1. inform the judge of the allegations being investigated and the canons or statutory provisions allegedly violated;

2. inform the judge that the investigation may be expanded if appropriate;

3. invite the judge to respond to the allegations in writing within 20 days; and

4. include a copy of the complaint, the preliminary investigation report(s), and any and all other documentation reviewed by the Commission in determining whether to authorize a full investigation.

R595-3-8. Formal Charges.

The Commission may, upon reasonable cause to support a finding of misconduct or disability, direct the executive director to file a formal complaint. The formal complaint shall give fair

and adequate notice of the nature of the alleged misconduct or disability. The executive director shall file the formal complaint with the Commission, cause a copy to be served upon the judge or judge's counsel, and file proof of service with the Commission.

R595-3-9. Pre-Hearing Procedures.

A. Answer. Within 20 days after service, the judge may file an answer to the formal complaint.

B. Scheduling of Confidential Hearing. After receipt of the judge's answer or after expiration of the time to answer, the hearing panel or masters shall schedule a confidential hearing and notify the judge of the date, time, and place of the confidential hearing.

C. Witnesses and Exhibits. Not later than 20 days before the confidential hearing, the examiner and the judge shall confer and attempt to agree upon uncontroverted and refuted facts and uncontested and contested issues of law; and exchange all proposed exhibits and a list of all potential witnesses.

D. Exculpatory Evidence. The examiner shall provide the judge with exculpatory evidence relevant to the formal charges.

E. Duty of Supplementation. Both parties have a continuing duty to supplement information required to be exchanged under this rule.

F. Failure to Disclose. The hearing panel chair or presiding master may preclude either party from calling a witness at the confidential hearing if the party has not provided the opposing party with the witness's name and address, any statements taken from the witness, or summaries of any interviews with the witness.

R595-3-10. Discipline by Consent.

At any time after the filing of formal charges and before final disposition by the Commission, the judge may, with the consent of the examiner, admit to any or all of the formal charges in exchange for a stated sanction. The agreement shall be submitted to the Commission for action.

R595-3-11. Confidential Hearing.

A. Authority of Hearing Panel Chair or Presiding Master. The hearing panel chair or presiding master shall rule on all motions and objections raised at the confidential hearing, may limit the time allowed for the presentation of evidence and arguments, may bifurcate any and all issues to be presented, and may make any and all other rulings regarding the procedure not contrary to statute or Commission rule.

B. Hearing Procedures.

1. All testimony shall be under oath.

2. The examiner and the judge shall be permitted to present evidence and produce and cross-examine witnesses, present rebuttal evidence and produce and cross-examine rebuttal witnesses, and summarize the evidence and legal issues.

3. Confidential hearings shall be recorded by a certified court reporter or other means used or allowed by courts of record in this state.

4. Panel hearing members or masters may ask questions of any witness or the judge.

5. Immediately following the conclusion of the evidence and arguments, the hearing panel or masters shall deliberate and make a decision. Any such decision shall require a majority of the hearing panel or masters participating in the confidential hearing.

C. Post-Hearing Procedures if the Decision is to Dismiss the Formal Charges. The hearing panel chair or presiding master shall prepare and sign an order of dismissal, and shall serve the same upon the judge.

D. Post-Hearing Procedures if the Decision is to Impose any Level of Sanction or Involuntary Retirement.

1. Within 60 days from the conclusion of deliberations:

a. the hearing panel chair or presiding master shall prepare a memorandum decision, which must be approved by a majority of the hearing panel or masters participating in the confidential hearing, then signed by the hearing panel chair or presiding master and served on the examiner and the judge;

b. The examiner shall prepare findings of fact, conclusions of law, and an order consistent with the memorandum decision; and

c. The findings of fact, conclusions of law, and order shall be approved and signed by the hearing panel chair or presiding master, and served on the judge.

2. The judge shall have ten days, after service of the findings of fact, conclusions of law, and order, to lodge any objections with the Commission. If no objections are lodged, the executive director shall submit the record to the Supreme Court upon the expiration of the objection period. If objections are lodged, the Commission may either resolve the objections or refer them to the Supreme Court without resolution, along with the record.

3. A copy of the record shall be provided to the judge at no cost.

R595-3-12. Amendments to Formal Complaint or Answer.

At any time before the hearing panel chair or presiding master signs the findings of fact, conclusions of law, and order, the formal complaint or answer may be amended to conform to the proof or to allege additional facts. If the formal complaint is amended, the judge shall be given reasonable time to answer and present evidence in defense of the amended charges.

R595-3-13. Reinstatement of Proceedings after Dismissal.

A. Reinstatement upon Request by Complainant.

1. If the Commission dismisses the proceedings at any time prior to the commencement of a confidential hearing, the complainant may, within 30 days of the date of the letter notifying the complainant of the dismissal, file a written request that the Commission reinstate the proceedings. The request shall include the specific grounds upon which reinstatement is sought.

2. The request shall be presented to the Commission at the next available meeting of the Commission, at which time the Commission shall determine whether to reinstate the proceedings.

3. A determination not to reinstate the proceedings is not appealable.

B. Reinstatement upon Request by Executive Director.

1. If the Commission dismisses the proceedings at any time prior to the filing of formal charges, the executive director may, at any time upon the receipt of newly discovered evidence, request that the Commission reinstate the proceedings. The request shall include the specific grounds upon which reinstatement is sought.

2. The request shall be presented to the Commission at the next available meeting of the Commission, at which time the Commission shall determine whether to reinstate the proceedings.

R595-3-14. Proceedings Involving Allegations of Mental or Physical Disability.

A. Initiation of Disability Proceeding. A disability proceeding may be initiated: by written complaint; by a claim of inability to defend in a disciplinary proceeding; by an order of involuntary commitment or adjudication of incompetency; or upon authorization by the Commission upon the receipt of an unwritten complaint as provided in statute or Commission rule.

B. Proceedings to Determine Disability Generally. All disability proceedings shall be conducted in accordance with Commission rule, except:

1. the purpose of disability proceedings shall be to

determine whether the judge suffers from a physical or mental condition that adversely affects the judge's ability to perform judicial functions; and

2. all of the proceedings shall be confidential.

**KEY: judicial conduct commission
February 1, 2005**

**Art. VIII, Sec. 13
78-8-101 through 78-8-108**

R595. Judicial Conduct Commission, Administration.**R595-4. Sanctions.****R595-4-1. Dismissals with Warning or upon Stated Conditions.**

A. The Commission may dismiss a complaint or formal complaint with a warning or upon stated conditions if:

1. the judge stipulates that the conduct complained of has occurred;
2. the Commission finds that the stipulated conduct constitutes misconduct; and
3. the Commission finds that the misconduct is troubling but relatively minor and that no public sanction is warranted.

B. The Commission will not dismiss a complaint or formal complaint with a warning or upon stated conditions if:

1. the Commission finds that a public sanction is warranted;
2. the Commission has previously dismissed a complaint or formal complaint against the judge upon stated conditions and the current misconduct violates one or more of those conditions; or
3. the Commission finds that the current misconduct is the same or similar to misconduct established from a previous complaint or formal complaint that was dismissed with a warning or upon stated conditions.

R595-4-2. Sanctions Guidelines.

In determining an appropriate sanction for misconduct, the Commission shall consider the following non-exclusive factors:

- A. the nature of the misconduct;
- B. the gravity of the misconduct;
- C. the extent to which the misconduct has been reported or is known among court employees, participants in the judicial system or the public, provided that the complainant or someone acting in concert with the complainant is not the source of the dissemination of information;
- D. the extent to which the judge has accepted responsibility for the misconduct;
- E. the extent to which the judge has made efforts to avoid repeating the same or similar misconduct;
- F. the length of the judge's service on the bench;
- G. the effect the misconduct has had upon the confidence of court employees, participants in the judicial system or the public in the integrity or impartiality of the judiciary;
- H. the extent to which the judge profited or satisfied his or her personal desires as a result of the misconduct; and
- I. the number and type of previous sanctions imposed against the judge.

**KEY: judicial conduct commission
February 1, 2005**

**Art. VIII, Sec. 13
78-8-101 through 78-8-108**

R616. Labor Commission, Safety.**R616-3. Elevator Rules.****R616-3-1. Authority.**

This rule is established pursuant to Section 34A-7-201 for the purpose of the Labor Commission ascertaining, fixing, and enforcing reasonable standards regarding elevators for the protection of life, health, and safety of the general public and employees.

R616-3-2. Definitions.

A. "ANSI" means the American National Standards Institute, Inc.

B. "ASME" means the American Society of Mechanical Engineers.

C. "Commission" means the Labor Commission created in Section 34A-1-103.

D. "Division" means the Division of Safety of the Labor Commission.

E. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform and that moves in guides in a substantially vertical direction.

F. "Escalator" means a stairway, moving walkway, or runway that is power driven, continuous and used to transport one or more individuals.

R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

A. ASME A17.1, Safety Code for Elevators and Escalators, 2004 ed. issued April 30, 2004, and amended as follows:

1. Delete 2.2.2.5;

2. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every three years with annual addenda. New issues and addenda become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation.

B. ASME A17.3 - 2002 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Safety.

C. ASME A90.1-1992, Safety Standard for Belt Manlifts.

D. ANSI A10.4-1990, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. 2003 International Building Code.

F. ICC/ANSI A117.1-1998 Accessible and Usable Buildings and Facilities, sections 407 and 408, approved February 13, 1998.

G. ASME A18.1-2003 Safety Standard For Platform Lifts And Stairway Chairlifts, issued July 29, 2003.

R616-3-4. Inspector Qualification.

A. Any person who performs elevator safety inspections must have a current certification as a Qualified Elevator Inspector as outlined in ASME QEI-1, Qualifications for Elevator Inspectors.

R616-3-5. Modifications and Variances to Codes.

A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner/user, the Division may allow the owner/user a variance. Variances must be in writing to be effective and can be revoked after reasonable notice is given in writing.

B. Persons who apply for a variance to a safety code requirement must present the Division with the rationale as to how their elevator installation provides safety equivalent to the applicable safety code.

C. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.

D. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.

E. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the International Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.

R616-3-6. Exemptions.

A. These rules apply to all elevators in Utah with the following exemptions:

1. Private residence elevators installed inside a single family dwelling. Common elevators which serve multiple private residences are not exempt from these rules.

2. Elevators in buildings owned by the Federal government.

B. Owners of elevators exempted in R616-3-5.A. may request a safety inspection by Division of Safety inspectors. Code non-compliance items will be treated as recommendations by the inspector with the owner having the option as to which, if any, are corrected. Owners requesting these inspections will be invoiced at the special inspection rate. If the owner requests a State of Utah Certificate to Operate for the elevator, all of the recommendations must be completed to the satisfaction of the inspector and the owner will be invoiced the appropriate certificate fee.

R616-3-7. Inspection of Elevators, Permit to Operate, Unlawful Operations.

A. It shall be the responsibility of the Division to make inspections of all elevators when deemed necessary or appropriate.

B. Elevator inspectors shall examine conditions in regards to the safety of the employees, public, machinery, drainage, methods of lighting, and into all other matters connected with the safety of persons using or in close proximity to each elevator, and when necessary give directions providing for the better health and safety of persons in or about the same. The owner/user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary.

C. If the Division finds that an elevator complies with the applicable safety codes and rules, the owner/user shall be issued a Certificate of Inspection and Permit to Operate.

1. The Certificate of Inspection and Permit to Operate is valid for 24 months.

2. The Certificate of Inspection and Permit to Operate shall be displayed in a conspicuous location for the entire validation period. If the certificate is displayed where accessible to the general public, as opposed to being in the elevator machine room, it must be protected under a transparent cover.

D. If the Division finds an elevator is not being operated in accordance with the safety codes and rules, the owner/user shall be notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the elevator into compliance.

E. Pursuant to Section 34A-7-204, if the improvements or changes are not made within a reasonable time, by agreement of the division and the owner, the elevator is being operated

unlawfully.

F. If the owner/user refuses to allow an inspection to be made, the elevator is being operated unlawfully.

G. If the owner/user refuses to pay the required fee, the elevator is being operated unlawfully.

H. If the owner/user operates an elevator unlawfully, the Commission may order the elevator operation to cease pursuant to Section 34A-1-104.

I. If, in the judgment of an elevator inspector, the lives or safety of employees or public are, or may be, endangered should they remain in the danger area, the elevator inspector shall direct that they be immediately withdrawn from the danger area, and the elevator removed from service until repairs have been made and the elevator has been brought into compliance.

R616-3-8. Inclined Wheelchair Lift Headroom Clearance.

A. Headroom clearance for inclined wheelchair lifts throughout the range of travel shall be not less than 80 inches (2032 mm) as measured vertically from the leading edge of the platform floor.

B. For existing facilities only, in the event that it is not technically or economically feasible to provide other means of access for disabled persons, inclined wheelchair lifts may be installed if all of the following conditions are met:

1. The appropriate building inspection jurisdiction approves the use of an inclined wheelchair lift for the specific application.

2. Headroom clearance throughout the range of travel shall be not less than 60 inches as measured vertically from the leading edge of the platform floor.

3. The passenger restriction sign as required by ASME A18.1 3.1.2.3 shall be amended as follows: "PHYSICALLY DISABLED PERSONS ONLY. NO FREIGHT. HEADROOM CLEARANCE IS LIMITED. USE ONLY IN THE SITTING POSITION".

R616-3-9. Valves in Hydraulic Elevator Operating Fluid Systems.

A. Due to the potential loss of pressure retaining capability when over torqued, bronze-bodied valves shall not be installed in the hydraulic systems of a hydraulic elevator.

B. This requirement is in effect for all new installations and remodel installations involving the hydraulic system.

C. If a bronze-bodied valve installed on an existing elevator begins to leak, that valve shall be replaced by a steel-bodied valve.

R616-3-10. Hydraulic Elevator Piping.

A. This rule establishes minimum standards for hydraulic fluid piping in hydraulic elevators. The piping specifications referred to in this rule are governed by ASME or ASTM piping specifications (e.g. ASME Specification SA-53 Table X2.4).

B. Hydraulic elevators not incorporating a safety valve may use schedule 40 piping.

C. For newly installed hydraulic elevators that do incorporate a safety valve:

1. Where piping is protected by the safety valve, schedule 40 piping may be used;

2. Where grooved or threaded connections are used in piping that is unprotected by the safety valve, i.e. between the safety valve and the hydraulic jack(s), nominal pipe size (NPS)3 or schedule 80 piping may be used;

3. Where piping is unprotected by the safety valve, but welded or bolted flange connections are used, schedule 40 piping may be used.

R616-3-11. Shunt Trips in Elevator Systems.

A. The means (shunt trip) to automatically disconnect the main line power supply to the elevator discussed in 2.8.2.3.2 of

A17.1 is not required for hydraulic elevators with a rise of 50 feet or less.

R616-3-12. Hoistway Vents.

Hoistway ventilation as outlined in the International Building Code is under the jurisdiction of the local building official.

R616-3-13. Hand Line Control Elevators.

A. Operation of a hand line control elevator is not permitted.

B. Owners of hand line control elevators are required to render the elevator electrically and mechanically incapable of operation.

R616-3-14. Remodeled Elevators.

A. When an elevator is classified as a remodeled (modernized) elevator by the Division, the components of the elevator involved in the modernization must comply with the standards of the latest version of A17.1 and A17.3 in effect at the time the remodeling of the elevator commences.

B. When a hydraulic elevator has been remodeled it is considered a new installation.

R616-3-15. Fees.

A. Fees to be charged as provided by Section 34A-1-106 and 63-38-3.2 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63-38-3(2).

B. The fee for the initial certification permit shall be invoiced to and paid by the company or firm installing the elevator.

C. The renewal certification permit shall be invoiced to and paid by the owner/user.

D. Any request for a special inspection shall be invoiced to and paid by the person/company requesting the inspection, at the hourly rate plus mileage and expenses.

R616-3-16. Notification of Installation, Revision or Remodeling.

A. Before any elevator covered by this rule is installed or a major revision or remodeling begins on the elevator, the Division must be advised at least one week in advance of such installation, revision, or remodeling unless emergency dictates otherwise.

R616-3-17. Initial Agency Action.

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or improvements by the elevator inspector are informal adjudicative actions commenced by the agency per Section 63-46b-3.

R616-3-18. Presiding Officer.

The elevator inspector is the presiding officer referred to in Section 63-46b-3. If an informal hearing is requested pursuant to R616-3-18, the Commission shall appoint the presiding officer for that hearing.

R616-3-19. Request for Informal Hearing.

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63-46b-3(a) and 63-46b-3(b).

R616-3-20. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.

Any hearing held pursuant to R616-3-18 shall be informal and pursuant to the procedural requirements of Section 63-46b-

5 and any agency review of the order issued after the hearing shall be per Section 63-46b-13. An informal hearing may be converted to a formal hearing pursuant to Subsection 63-46b-4(3).

KEY: elevators, certification, safety
February 1, 2005 **34A-1-101 et seq.**
Notice of Continuation January 10, 2002

R651. Natural Resources, Parks and Recreation.**R651-202. Boating Advisory Council.****R651-202-1. Boating Advisory Council.**

A Boating Advisory Council, consisting of seven members, has been appointed by the board to represent boaters and others in boating matters. There is one member from each of the following interests: United States Coast Guard Auxiliary, sailing or non-powered craft users, wildlife and outdoor recreation associations, marine dealers, personal watercraft users, river runners and a youth member.

KEY: boating**January 15, 2005****73-18-3.5****Notice of Continuation November 13, 2001**

R651. Natural Resources, Parks and Recreation.**R651-205. Zoned Waters.****R651-205-1. Obeying Zoned Waters.**

The operator of a vessel shall obey zoned water requirements or restrictions.

R651-205-2. Deer Creek Reservoir.

Vessels and all other water activities are prohibited within 1500 feet of the dam. No water skiing in Wallsberg Bay.

R651-205-3. Green River.

The use of motors is prohibited between the Flaming Gorge Dam and the confluence with Red Creek.

R651-205-4. Stansbury Park Lake.

The use of vessels over 20 feet in length and motors, except electric trolling motors, is prohibited.

R651-205-5. Lower Provo River.

The section from where it enters into Utah Lake upstream to the gas pipeline is designated as a wakeless speed area, and the use of motors is prohibited upstream from this point.

R651-205-6. Decker Lake.

The use of motors is prohibited.

R651-205-7. Palisade Lake.

The use of motors, except electric trolling motors, is prohibited.

R651-205-8. Ivins Reservoir.

The use of motors whose manufacture listed horsepower is 10 horsepower or more is prohibited.

R651-205-9. Jordan River.

The use of motors is prohibited.

R651-205-10. Ken's Lake.

The use of motors, except electric trolling motors, is prohibited.

R651-205-11. Pineview Reservoir.

The use of motors, except electric motors, is prohibited in the designated area in the North Arm, North Geersten Bay and the Middle Fork of the Ogden River. Vessels are prohibited in the Middle Inlet and Cemetery Point picnic areas.

R651-205-12. Jordanelle Reservoir.

The use of motorboats or sailboats is prohibited in the designated area of Hailstone Beach.

R651-205-13. Little Dell Reservoir.

The use of motors is prohibited.

R651-205-14. Bear Lake.

The use of a vessel is prohibited from July 1 through Labor Day in the area adjacent to Cisco Beach starting at the entrance station and extending approximately 1/4 mile south, when this area is marked with appropriate buoys.

R651-205-15. Lost Creek Reservoir.

A vessel may not be operated at a speed greater than wakeless speed at any time.

KEY: boating**January 15, 2005****Notice of Continuation November 13, 2001****73-18-4(1)(c)**

R651. Natural Resources, Parks and Recreation.**R651-206. Carrying Passengers for Hire.****R651-206-1. Vessel Operator Permit.**

(1) As used in this rule: "Operator Permit" means a valid Utah Vessel Operator Permit issued by the division or a valid Coast Guard Motorboat Operator License. The operator permit must be accompanied by a current and original First Aid Card or certificate and a current and original CPR card or certificate.

(a) The first aid card or certificate must be issued for an American Red Cross "Standard" or "Basic" first aid course or an equivalent course from a reputable provider.

(b) The CPR card or certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR course, or an equivalent course from a reputable provider who teaches in accordance with the Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.

(c) First aid and CPR cards or certificates must include the following information: name or title of the course; course provider and contact information; length of certification; name and signature of person certified; and signature of the course instructor.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any lake or reservoir of this state unless the individual has in his possession an Operator Permit or is operating under Section R651-206-2.

(3) To obtain a Utah Vessel Operator Permit, the applicant must be at least 18 years old, complete the prescribed form, possess the required first aid and CPR certification, successfully complete a written examination, pay a \$60 fee, and have 80 hours of experience in vessel operation, 20 hours of which was obtained operating an equivalent type and size of vessel which will be used for carriage of passengers. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) A Utah Vessel Operator Permit is valid for three years from date of issue, unless suspended or revoked.

(5) A Utah Vessel Operator Permit may be renewed up to six months prior to expiration, upon completion of the prescribed form, presentation of required first aid and CPR certification, and payment of a \$45 fee. The renewed permit shall have the same month and day expiration date as the original permit.

(6) A Utah Vessel Operator Permit which has expired shall not be renewed but is required to obtain a new permit as outlined above.

(7) In the event a Utah Vessel Operator Permit is lost or stolen, a duplicate permit may be issued with the same expiration date as the original permit upon completion of the prescribed form, payment of a \$25 fee. An application for a duplicate permit must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Current Utah Vessel Operator Permit holders shall notify the Division, within 30 days, of any change of address.

(9) A Utah Vessel Operator Permit may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period; or

(d) the division determines that the permit holder

intentionally provided false or fictitious statements or qualifications to obtain the permit.

(10) A person shall not operate an unfamiliar vessel carrying passengers for hire or operate on unfamiliar water unless there is an operator permit holder aboard who is familiar with the vessel and the water area.

(11) A valid Coast Guard Motorboat Operator License must be possessed if engaging in carrying passengers for hire on Bear Lake, Flaming Gorge, or Lake Powell, or a Vessel Operator Permit if leading persons for hire.

R651-206-2. River Guide Permit.

(1) As used in this rule: "Guide Permit" means a valid Guide 1, 2, 3 or 4 permit issued by the division for carrying or leading passengers for hire. The Guide Permit must be accompanied by a current and appropriate level first aid card or certificate and a current CPR card or certificate. A photocopy of both sides of the first aid and CPR cards or certificates is allowed for river guides when boating on rivers.

(a) "Agent" means a person(s) designated by an outfitting company to act in behalf of that company in certifying a river guide's experience.

(b) "Certifying experience" means river running experience obtained within ten years of the date of application for the guide permit.

(c) "Guide 1" means a nonrestrictive river guide permit.

(d) "Guide 2" means a restricted river guide permit, which is valid only on other rivers.

(e) "Guide 3" means an apprentice river guide permit, which is valid only when the holder is accompanied on the whitewater river by a qualified Guide 1 permit holder. A Guide 3 permit is also valid on other rivers, but must be accompanied by either a Guide 1 or 2 permit holder.

(f) "Guide 4" means a restricted apprentice river guide permit, which is valid only on other rivers when the holder is accompanied on the trip by a qualified Guide 1 or 2 permit holder.

(g) First Aid and CPR Course Requirements for Guide Permits:

(i) For Guide 1 and 2 Permits, the first aid card or certificate must be issued for an American Red Cross "Emergency Response" course or an equivalent course from a reputable provider who teaches in accordance with the USDOT First Responder Guidelines or the Wilderness Medical Society Guidelines for Wilderness First Responder.

(ii) For Guide 3 and 4 Permits, the first aid card or certificate must be issued for an American Red Cross "Standard" or "Basic" first aid course, or an equivalent course from a reputable provider.

(iii) The CPR card or certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR course, or an equivalent course from a reputable provider who teaches in accordance with the Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.

(iv) First aid and CPR cards or certificates must include the following information: name or title of the course; course provider and contact information; length of certification; name and signature of the person certified; and signature of the course instructor.

(h) "Low capacity vessel" means a vessel with a carrying capacity of three or fewer occupants (e.g. canoe, kayak, inflatable kayak or similar vessel).

(i) "Other rivers" means all rivers, river sections, or both in Utah not defined in Subsection R651-202-2(1) as a whitewater river.

(j) "Whitewater river" means the following river sections: the Green and Yampa rivers within Dinosaur National

Monument, the Green River in Desolation-Gray Canyon (Mile 96 to Mile 20), the Colorado River in Westwater Canyon, the Colorado River in Cataract Canyon, or other division recognized whitewater rivers in other states.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any river of this state unless that person has in his possession the appropriate valid river guide permit. For low capacity vessels not operated by but led by a guide permit holder, there shall be at least one qualified guide permit holder for every four low capacity vessels being led in the group.

(3) To qualify for a Guide 1 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a \$30 fee and have operated a vessel on at least nine whitewater river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) To qualify for a Guide 2 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a \$30 fee and have operated a vessel on at least six river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(5) To qualify for a Guide 3 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a \$20 fee and have operated a vessel on at least three whitewater river sections.

(6) To qualify for a Guide 4 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a \$20 fee and have operated a vessel on at least three river sections.

(7) Any person applying for a duplicate, renewal, or a new guide permit shall be employed by or be a prospective employee of an outfitting company currently registered with the division. The applicant shall be sponsored by that outfitting company, or be currently employed and sponsored by a federal, state or county agency. Permit applications must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Guide 3 and 4 permits shall expire annually on December 31. Guide 1 and 2 permits shall expire three years from date of issuance.

(9) Guide 1 or 2 permits may be renewed up to six months prior to expiration upon completion of the prescribed form, presentation of current guide permit, required first aid and CPR certification, and payment of a \$30 fee. The renewed permit shall have the same month and day expiration date as the original permit. Any Guide 1 or 2 permit holder whose permit has expired shall be required to obtain a new Guide 1 or 2 permit as outlined above.

(10) In the event a guide permit is lost or stolen a duplicate guide permit may be issued with the same expiration date as the original permit upon completion of the prescribed form, furnishing the required information as described in (7) above and payment of the required fee. The fee shall be \$15 for a Guide 1 or 2 permit, and \$15 for a Guide 3 or 4 permit.

(11) All boatman permits issued by the division are expired.

(12) Current Guide Permit holders shall notify the Division, within 30 days, of any change of address.

(13) A guide permit holder shall not carry passengers for hire on his first trip on an unfamiliar river unless there is a qualified Guide 1 or 2 permit holder aboard who has operated a similar vessel on that river segment.

(14) A guide permit may be suspended or revoked for a length of time determined by the division director, or individual

designated by the division director, if one of the following occurs:

(a) the guide permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the guide permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the guide permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period;

(d) the division determines that the guide permit holder intentionally provided false or fictitious statements or qualifications to obtain the guide permit; or

(e) a guide permit holder has utilized a private river trip permit for carrying passengers for hire and has been prosecuted by the issuing agency and found guilty of the violation.

(15) Every outfitting company carrying passengers for hire on any river of this state shall register with the division annually prior to commencement of operation. The registration requires the completion of the prescribed form and providing the following: evidence of registration with the Department of Commerce, evidence of river trip authorization from the appropriate controlling state or federal agency, and payment of a \$200 fee.

(16) The agent shall certify and guarantee that each river guide sponsored by the outfitting company that he represents has obtained the necessary experience, as required above, depending on the type of guide permit applied for.

(17) An outfitting company's division registration may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the outfitting company's or agent's negligence caused personal injury or death as determined by due process of the law;

(b) the outfitting company or agent is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a calendar year period;

(c) false or fictitious statements were certified or false qualifications were used to qualify a person to obtain a guide permit for an employee or others;

(d) the division determines that the outfitting company intentionally provided false or fictitious statements or qualifications when registering with the division;

(e) an outfitting company has utilized a private river trip permit for carrying passengers for hire and have been prosecuted by the issuing agency and found guilty of the violation; or

(f) the outfitting company used a guide without a valid guide permit or without the appropriate guide permit while engaging in carrying passengers for hire.

KEY: boating
January 15, 2005
Notice of Continuation August 7, 2001

73-18-4(4)

R651. Natural Resources, Parks and Recreation.**R651-211. Assigned Numbers.****R651-211-1. Assigned Numbers.**

The assigned number will consist of the prefix letters, "UT", to designate the State of Utah, one to four numerals, and two suffix letters that may designate a certain type of vessel. The suffix letters that designate a certain type of vessel are: AB - Airboat; DL - marine dealer or manufacturer; EX - Exempt (for official government business only). All other suffixes shall be randomly assigned.

R651-211-2. Assigned Number Reserved for the Division.

"UT 2628 BP" shall be the assigned number reserved for Division use in boating education and law enforcement training, and shall not be assigned to any vessel.

KEY: boating**January 15, 2005****73-18-7(18)(a)****Notice of Continuation November 13, 2001**

R651. Natural Resources, Parks and Recreation.**R651-212. Display of Yearly Registration Decals and Month of Expiration Decals.****R651-212-1. Display of Registration Decals.**

A yearly registration decal shall be displayed three inches aft of the assigned number on each side of the vessel. On documented vessels, a yearly registration decal shall be displayed on each side of the forward half of the vessel. Only current-year registration decals may be displayed.

R651-212-2. Month of Expiration Decal.

A month of expiration decal shall be displayed immediately aft of the yearly registration decal.

KEY: boating

January 15, 2005

73-18-7(18)(b)

Notice of Continuation November 19, 2001

R651. Natural Resources, Parks and Recreation.**R651-215. Personal Flotation Devices.****R651-215-1. Definitions.**

- (1) "PFD" means personal flotation device.
- (2) "Vessel length" is the measurement of the permanent part of the hull, from bow to stern, across the deck down the centerline, excluding sheer.
- (3) "Wear" means to have the PFD properly worn with all fasteners connected.
- (4) "Whitewater canoe" means a one or two person capacity hard hulled canoe designed for white water activities and is equipped with: floatation (e.g., factory end chambers or float bags) and thigh straps or retention devices to hold the operator(s) in the vessel if it rolls.

R651-215-2. PFD Requirements for Vessels Less than 16 Feet in Length.

No person shall operate or give permission for the operation of a vessel less than 16 feet in length unless there is at least one Type I, II, or III PFD for each person on board.

R651-215-3. PFD Requirements for Vessels 16 Feet or More in Length.

No person shall operate or give permission for the operation of a vessel 16 feet or more in length unless there is at least one Type I, II, or III PFD for each person on board. In addition to the total number of PFD's, there shall also be one Type IV PFD on board.

R651-215-4. Types of Personal Flotation Devices.

Type I - Off-shore Life Jacket - provides the most buoyancy of any type of PFD. Designed to turn the most unconscious wearers to a face-up position in the water. Effective for all waters, especially open, rough or remote waters where rescue may be delayed. Acceptable for use on all vessels.

Type II - Near Shore Buoyancy Vest - is designed to turn some unconscious wearers to a face-up position in the water. Intended for calm, inland waters where there is a good chance of quick rescue.

Type III - Flotation Aid - Good for conscious users in calm, inland waters where there is good chance of quick rescue. Designed so conscious wearers can place themselves in a face up position in the water. The wearer may have to tilt their head back to avoid turning face-down in the water.

Type IV - Throwable Device - Designed to be thrown to a person in the water and grasped and held by the user until rescued. Not designed to be worn.

Type V - Special Use Device - Intended for specific activities and may be carried instead of another PFD if used according to the approval conditions on its label.

R651-215-5. Immediately Available and Readily Accessible.

Type IV PFDs shall be immediately available; all other types of PFD shall be readily accessible, unless wearing is required.

R651-215-6. Type V PFD Carried in Lieu.

A Type V PFD may be carried or worn in lieu of another required PFD, but only if it is used according to the approval conditions on its label.

R651-215-7. Whitewater River PFD Requirements.

On whitewater rivers, as defined in Subsection R651-206-2 (1), Type I or Type III PFDs, are required and shall be used according to the approval conditions on their labels.

R651-215-8. Carrying Passengers for Hire PFD Requirements on Rivers.

- (1) On rivers, if carrying passengers for hire, Type I PFDs

are required. Type I PFDs or Type V PFDs used in lieu of the Type I PFD must be listed for commercial use on the label.

(2) The required Type IV PFD shall be a ring life buoy on vessels 26 feet or more in length.

(3) Hard hulled kayak or white water canoe operators or a working river guide may wear a Type III PFD in lieu of the Type I PFD.

R651-215-9. River Throw Bag in Lieu of Type IV PFD.

On rivers, in lieu of the Type IV PFD requirement, a throw bag with a minimum of 40 feet of line may be carried.

R651-215-10. Carrying Passengers for Hire PFD Requirements on Lakes and Reservoirs.

(1) When carrying passengers for hire, Type I PFDs are required. Type I PFDs, or Type V PFDs used in lieu of the Type I PFD, must be listed for commercial use on the label.

(2) The required Type IV PFD shall be a ring life buoy on vessels 26 feet or more in length.

(3) For all hard-hulled kayak or sea-kayak operators, a Type III PFD may be carried or worn in lieu of the required Type I PFD.

R651-215-11. Required Wearing of PFDs.

(1) An inflatable PFD may not be used to meet the requirements of this Section.

(2) All persons on board a personal watercraft or a sailboard shall wear a PFD.

(3) The operator of a vessel under 19 feet in length shall require each passenger 12 years of age or younger to wear a PFD. This rule is also applicable to vessels 19 feet or more in length, except when the child is inside the cabin area.

(4) On rivers, every person on board a vessel shall wear a PFD, except PFDs may be loosened or removed by persons 13 years of age or older on designated flat water areas as listed in Section R651-215-12. When carrying passengers for hire, the river guide is responsible for the passengers on his vessel to be in compliance with this Subsection.

R651-215-12. River Flat Water Areas.

(1) On the Green River:

(a) from Red Creek Camp below Red Creek Rapids to the Indian Crossing Boat Ramp;

(b) from 100 yards below Taylor Flats Bridge to the Utah/Colorado state line in Browns Park;

(c) within Dinosaur National Monument, from the mouth of Whirlpool Canyon to the head of Split Mountain Gorge;

(d) from the mouth of Split Mountain to Jack Creek in Desolation Canyon; and

(e) from the Green River Diversion Dam below Gray Canyon to the confluence with the Colorado River.

(2) On the Colorado River:

(a) from the Colorado/Utah state line to the Westwater Ranger Station;

(b) from Big Hole Canyon in Westwater Canyon to Onion Creek;

(c) from Drinks Canyon, mile 70, to the confluence with the Green River; and

(d) after the last active rapid in Cataract Canyon.

(3) On the San Juan River, after the last active rapid prior to Lake Powell.

R651-215-13. PFDs.

All Personal Flotation Devices (PFDs) must be used according to the conditions or restrictions listed on the U.S. Coast Guard Approval Label.

KEY: boating
January 15, 2005

73-18-8

Notice of Continuation August 7, 2001

R651. Natural Resources, Parks and Recreation.**R651-401. Off-Highway Vehicle and Registration Stickers.****R651-401-1. Stickers.**

Upon receipt of the application in the approved form, the Division of Motor Vehicles shall issue annual registration stickers which shall be displayed as follows: on snowmobiles, a sticker shall be mounted on both sides of the hood, tunnel or pan; on motorcycles, a sticker shall be mounted on both sides of the fork; and on all-terrain type I and type II vehicles, stickers shall be mounted on the front and the rear of the vehicle. Vehicle types are defined in 41-22-2. In all instances, sticker shall be mounted in a visible location.

R651-401-2. Display of OHV Registration Numbers.

(1) The owner of an off-highway vehicle shall display the registration number assigned under 41-22-3.1 as follows: (a) on snowmobiles, the number shall be displayed on the left side of the hood, tunnel or pan; (b) on motorcycles, the number shall be displayed on the left fork, or on the left body plastic; and c) on all-terrain type I and type II vehicles, the number shall be displayed on the rear of the vehicle. (d) In all instances, the number shall be displayed in such a location as to be plainly visible from a distance of fifty feet during daylight.

(2) Letters and digits used in displaying the number assigned under 41-22-3.1 shall meet the following minimum standards: (a) The assigned number shall be displayed in upper case block letters and digits. Scripted or stylized lettering shall not be allowed. (b) Individual letters and digits shall be a minimum of one-inch high, and shall be of a color that contrasts with the color of the surface to which they are affixed.

KEY: off-highway vehicles

January 15, 2005

41-22-3(4)

Notice of Continuation November 13, 2001

R655. Natural Resources, Water Rights.
R655-3. Reports of Water Right Conveyance.
R655-3-1. Scope and Purpose.

These rules are issued pursuant to Section 73-1-10 which provides that the state engineer shall adopt rules that specify when a water right owner is authorized to prepare a Report of Conveyance to the state engineer; the kinds of information required in such reports; and the procedures for processing such reports.

R655-3-2. Definitions.

BENEFICIAL USE - the basis, the measure and the limit of a water right. It is the amount of water use allowed by the water right expressed in terms of the purpose(s) to which the water may be applied. For example, in the case of irrigation, the beneficial use is expressed as the number of acres that may be irrigated by the water right (e.g. 40 acres).

CHANGE APPLICATION - as allowed by Section 73-3-3, any person entitled to the use of water may make permanent or temporary changes in the point of diversion, place of use, or nature of use of a water right by making application upon forms furnished by the state engineer

DIVERSION LIMIT - the total volume of water in acre feet or the flow rate in cubic feet per second which may be diverted as allowed by the water right to meet the needs of the beneficial uses authorized by the water right.

DIVISION - the Utah Division of Water Rights within the Department of Natural Resources.

PROFESSIONAL - for the purposes of this rule, a person, as specified in Section 73-1-10, who is licensed in Utah as an attorney, a professional engineer, a title insurance agent, or a professional land surveyor.

REPORT OF CONVEYANCE - a report of water right conveyance to the state engineer as required by Section 73-1-10.

R655-3-3. When a Water Right Owner is Authorized to Prepare a Report of Conveyance.

A water right owner may prepare a Report of Conveyance without the certification of a professional in the situations described below in subsections 3.2, 3.3, and 3.4. In all other situations, a Report of Conveyance must be prepared by or under the direct supervision of, and certified by, a professional.

3.1 On each of the documents (deed, marriage certificate, divorce decree, death certificate, or probate document) required in the situations described in subsections 3.2, 3.3, and 3.4, the name appearing on the document (the grantor in the case of a deed) must be exactly the same as the name of the water right owner as shown on the division's records. If there are differences in the names, the discrepancy may be addressed by attaching to the Report of Conveyance affidavits executed by the appropriate parties asserting that the persons named are one and the same.

3.2 Ownership changes which involve simple water rights conveyances.

3.2.1 A deed which conveys an entire water right and which specifically identifies the water right being conveyed by the state engineer's water right number (for example 43-1638).

3.2.2 A deed which conveys more than one water right and which meets the criteria of paragraph 3.2.1 for each water right conveyed.

3.2.3 A deed which conveys a portion of a water right and which conforms to the following suggested Water Right Deed format:

3.2.3.1 The deed must be clearly labeled "WATER RIGHT DEED".

3.2.3.2 The deed must contain standard warranty deed or quit claim deed conveyance language.

3.2.3.3 The deed must be limited to the conveyance of water rights and must convey only one water right.

3.2.3.4 The deed must contain all of the information necessary to clearly identify the water right conveyed. The deed must show the water right number. If this interest in the water right has been segregated from another water right, the deed must show the currently assigned water right number. The water right number will be the basis for identifying the water right, however, the deed may also show other numbers pertinent to the water right such as a diligence claim number, an application number, an award number from a decree, etc.

3.2.3.5 The deed must name a grantee. (The name of the grantee as shown on the deed will be the name used to update the division's records.)

3.2.3.6 The deed must show the current mailing address for the grantee. (This will be the address to which the division will mail official notices regarding administrative actions on the water right.)

3.2.3.7 The deed must describe the beneficial uses conveyed by type and amount. For example:

TABLE 1

Irrigation	38.50 acres
Stockwatering	10 cattle or equivalents
Domestic	1 family

(The division will use the beneficial use information to update the water right ownership.) The volume of water conveyed in acre feet or the flow rate conveyed in cubic feet per second or gallons per minute, is not required on the deed. However, if it is shown on the deed, it must be consistent with the beneficial use(s) shown on the deed.

3.2.3.8 If there are multiple grantors and/or multiple grantees, the deed must clearly indicate the interest conveyed from each grantor and/or the interest acquired by each grantee.

3.2.3.9 The deed must list by number any approved or unapproved pending change applications which are associated with the water right. The deed must also describe the type and amount of beneficial use associated with each of these applications that is being conveyed with the water right. For example:

TABLE 2

Irrigation	20.50 acres
Stockwatering	5 cattle or equivalents
Domestic	1 family

3.2.3.10 The deed must be signed by all grantors, notarized, and recorded in the county where the water is diverted and in the county where the water is used. If the water is diverted or used in more than one county, the deed must be recorded in each county where the water is diverted or used.

3.2.4 Reports of Conveyance prepared by water right owners may be based on more than one deed in the chain of deeds as long as each deed complies with the requirements of 3.2.1, 3.2.2, or 3.2.3.

3.3 Name changes which are due to marriage or divorce

3.3.1 In the case of marriage, a water right owner's name may be changed from the prior or maiden name to the married name. The Report of Conveyance must be accompanied by a copy of the marriage certificate.

3.3.2 In the case of divorce, a water right owner's name may be changed from the married name to the prior or maiden name. The Report of Conveyance must be accompanied by a copy of the divorce decree.

3.3.3 To add or remove a spouse, the water right ownership may be updated according to the procedure described in 3.2 above.

3.4 Ownership changes which are due to the death of the water right owner

3.4.1 When the water right is held in joint tenancy, the ownership may be updated to remove the name of the deceased

joint tenant. The Report of Conveyance must be accompanied by a copy of the death certificate.

3.4.2 When the water right is not held in joint tenancy and there is only one successor to the deceased and the probate document clearly defines the distribution of the estate, the ownership may be updated to the successor. The Report of Conveyance must be accompanied by a copy of the probate document.

R655-3-4. Content of the Report of Conveyance.

A Report of Conveyance must have sufficient documentation presented in a standard statement format to demonstrate the chain of title connecting the owner as shown on the Division's water right records to the person currently claiming ownership of all or a portion of the water right. The Report of Conveyance shall be submitted on forms provided by the state engineer. The information required in a Report of Conveyance for most ownership transactions includes the information described below and any other information deemed necessary by the state engineer to process the report.

4.1 Information required on all Reports of Conveyance

4.1.1 The type of conveyance document.

4.1.2 The date the document was signed and the county recorder information.

4.1.3 The grantor name(s) as it appears on the conveyance document.

4.1.4 The grantee name(s) exactly as it appears on the conveyance document.

4.1.5 The current mailing address of the grantee.

4.1.6 Any pending change applications or non-use applications associated with the conveyance document.

4.1.7 Any special conditions of the conveyance document

4.1.8 Unless the Report of Conveyance is prepared by the water right owner as allowed by R655-3-3, it must include a certification by a professional stating that (s)he has prepared or supervised the preparation of the Report of Conveyance, that the report is true and accurate to the best of the preparer's knowledge, and that the attached documents evidence the ownership interest of the grantee. The certification must include the professional's name, profession, license number, and phone number. The certification also requires the name and phone number of the grantee.

4.2 In addition to the information described in 4.1, a Report of Conveyance which involves conveyance of only a portion of the water right must also include the following information:

4.2.1 The amount and type of each beneficial use that was conveyed by this document.

4.2.2 If applicable, the amount of each type of beneficial use associated with any pending change that was conveyed by the documents.

4.2.3 The diversion limit conveyed as applicable (see sub section 3.2.3.7).

4.3 The supporting information which must accompany each Report of Conveyance include the following items:

4.3.1 Maps (if needed to establish water right appurtenance to land or to establish the portion of the water right conveyed by appurtenance)

4.3.2 Any explanatory narrative deemed necessary by the certifier.

4.3.3 Any necessary affidavits

4.3.4 Copies of all conveyance documents listed on the summary sheet.

4.3.4.1 Conveyance documents (deeds, etc.) must bear county recorder's stamp with all recording information (document number, book, page, recording date, etc.).

4.3.4.2 Documents must be legible.

4.3.4.3 Documents must be arranged in chronological order by recording date/number.

R655-3-5. Procedures for Processing a Report of Conveyance.

5.1 Upon receiving a Report of Conveyance and the prescribed fee, the state engineer shall review the Report to see that it is acceptably complete. A Report of Conveyance is acceptably complete if the Report includes all the information and material required in section R655-3-4 which is necessary to update the water right ownership records of the state engineer to the name of the person claiming water right ownership and which does not conflict with other water right ownership information of record with the state engineer.

5.2 If a Report of Conveyance is acceptably complete, the state engineer shall file the Report and update the water right ownership records according to the Report.

5.3 If a Report of Conveyance is not acceptably complete, the state engineer shall return the Report with an explanation of why it is not acceptably complete. The state engineer may not file the Report and update the water right ownership records unless the Report is resubmitted with the necessary information and material.

**KEY: water right, conveyance, ownership
July 1, 2000
Notice of Continuation February 1, 2005**

73-1

R655. Natural Resources, Water Rights.**R655-4. Water Well Drillers.****R655-4-1. Purpose, Scope, and Exclusions.****1.1 Purpose.**

These rules are promulgated pursuant to Section 73-3-25. The purpose of these rules is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water.

All administrative procedures involving applications, approvals, hearings, notices, revocations, orders and their judicial review, and all other administrative procedures required or allowed by these rules are governed by R655-6 "Administrative Procedures for Informal Proceedings Before the Division of Water Rights".

1.2 Scope.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells is regulated by these administrative rules and the work must be completed by a licensed well driller. The rules contained herein pertain only to work on the well itself. These rules do not regulate the incidental work around the well such as pump and motor installation and repair; plumbing, electrical, and excavation work up to the well; and the building of well enclosures unless these activities directly impact or change the construction of the well itself. The process for an applicant to obtain approval to construct, or replace the wells listed below in 1.2.1, 1.2.2, or 1.2.3 is outlined in Section R655-4-7 of these rules. The process for an applicant to obtain approval to construct, deepen, repair, clean, or replace the wells listed below in 1.2.4, 1.2.5, or 1.2.6 is outlined in Appendix 1.

1.2.1 Cathodic protection wells.

1.2.2 Heating or cooling exchange wells which are 30 feet or greater in depth and which encounter formations containing groundwater. If a separate well or borehole is required for re-injection purposes, it must also comply with these administrative rules.

1.2.3 Monitor wells which are completed to a depth of 30 feet or greater.

1.2.4 Private water production wells which are completed to a depth of 30 feet or greater.

1.2.5 Public water system supply wells.

1.2.6 Recharge and recovery wells which are drilled under the provisions of Title 73, Chapter 3b "Groundwater Recharge and Recovery Act" Utah Code Annotated.

1.3 Exclusions.

The construction, repair, replacement, or abandonment of the following types of wells or boreholes are excluded from regulation under these administrative rules:

1.3.1 Any cathodic protection wells, heating or cooling exchange wells, monitor wells and water production wells that are constructed to a final depth of less than 30 feet. However, diversion and beneficial use of groundwater from wells less than 30 feet deep shall require approval through the appropriation procedures and policies of the state engineer and Title 73, Chapter 3 of the Utah Code Annotated.

1.3.2 Geothermal wells. Although not regulated under the Administrative Rules for Water Well Drillers, geothermal wells are subject to Section 73-22-1 "Utah Geothermal Resource Conservation Act" Utah Code Annotated and the rules promulgated by the state engineer including Section R655-1, Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah.

1.3.3 Temporary exploratory wells drilled to obtain

information on the subsurface strata on which an embankment or foundation is to be placed or an area proposed to be used as a potential source of material for construction.

1.3.4 Wells or boreholes constructed to monitor man-made structures, house instrumentation to monitor structural performance, or dissipate hydraulic pressures on structures provided the wells or boreholes do not interfere with established aquifers or their primary purpose is not for monitoring water quality.

1.3.5 Wells or boreholes drilled or constructed into non-water bearing zones or which are less than 30 feet in depth for the purpose of utilizing heat from the surrounding earth.

1.3.6 Geotechnical borings drilled to obtain lithologic data which are not installed for the purpose of utilizing or monitoring groundwater.

R655-4-2. Definitions.

ABANDONED WELL - any well which is not in use and has been filled or plugged so that it is rendered unproductive and will prevent contamination of groundwater. A properly abandoned well will not produce water nor serve as a channel for movement of water from the well or between water bearing zones.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) - a nationally recognized testing laboratory that certifies building products and adopts standards including those for steel and plastic (PVC) casing utilized in the well drilling industry. ANSI standards are often adopted for use by ASTM and AWWA. Current information on standards can be obtained from: ANSI, 1430 Broadway, New York, NY 10018.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) - an independent organization concerned with the development of standards on characteristics and performance of materials, products and systems including those utilized in the well drilling industry. Information may be obtained from: ASTM, 1916 Race Street, Philadelphia, PA 19013.

AMERICAN WATER WORKS ASSOCIATION (AWWA) - an international association which publishes standards intended to represent a consensus of the water supply industry that the product or procedure described in the standard will provide satisfactory service or results. Information may be obtained from: AWWA, 6666 West Quincy Avenue, Denver CO 80235.

ANNULAR SPACE - the space between the inner well casing and the outer well casing or borehole.

AQUIFER - a porous underground formation yielding withdrawable water.

ARTESIAN AQUIFER - a water-bearing formation which contains underground water under sufficient pressure to rise above the zone of saturation.

ARTESIAN WELL - a well where the water level rises appreciably above the zone of saturation.

BENTONITE - a highly plastic, highly absorbent, colloidal swelling clay composed largely of mineral sodium montmorillonite. Bentonite is commercially available in powdered, granular, tablet, pellet, or chip form which is hydrated with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, well abandonment, and to provide a seal in the annular space between the well casing and borehole wall.

BENTONITE GROUT - a mixture of bentonite and potable water specifically designed to seal and plug wells and boreholes mixed at manufacturer's specifications to a grout consistency which can be pumped through a pipe directly into the annular space of a well or used for abandonment. Its primary purpose is to seal the borehole or well in order to prevent the subsurface

migration or communication of fluids.

CASH BOND - A type of well driller bond in the form of a certificate of deposit (CD) submitted and assigned to the State Engineer by a licensed driller to satisfy the required bonding requirements.

CASING - a tubular retaining and sealing structure that is installed in the borehole to maintain the well opening.

CATHODIC PROTECTION WELL - a well constructed for the purpose of installing deep anodes to minimize or prevent electrolytic corrosive action of metallic structures installed below ground surface, such as pipelines, transmission lines, well casings, storage tanks, or pilings.

CONFINING UNIT - a geological layer either of unconsolidated material, usually clay or hardpan, or bedrock, usually shale, through which virtually no water moves.

CONSOLIDATED FORMATION - bedrock consisting of sedimentary, igneous, or metamorphic rock (e.g. shale, sandstone, limestone, quartzite, conglomerate, basalt, granite, tuff, etc.).

DISINFECTION - or disinfecting is the use of chlorine or other disinfecting agent or process approved by the state engineer, in sufficient concentration and contact time adequate to inactivate coliform or other organisms.

DRAWDOWN - the difference in elevation between the static and pumping water levels.

DRILL RIG - any power-driven percussion, rotary, boring, coring, digging, jetting, or augering machine used in the construction of a well or borehole.

EMERGENCY SITUATION - any situation where immediate action is required to protect life or property. Emergency status would also extend to any situation where life is not immediately threatened but action is needed immediately and it is not possible to contact the state engineer for approval. For example, it would be considered an emergency if a domestic well needed immediate repair over a weekend when the state engineer's offices are closed.

GRAVEL PACKED WELL - a well in which filter material is placed in the annular space to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.

GROUNDWATER - subsurface water in a zone of saturation.

GROUT - a fluid mixture of Portland cement or bentonite with water of a consistency that can be forced through a pipe and placed as required. Various additives such as sand, bentonite, and hydrated lime may be included in the mixture to meet different requirements.

HYDRAULIC FRACTURING - the process whereby water or other fluid is pumped under high pressure into a well to fracture and clean-out the reservoir rock surrounding the well bore thus increasing the flow to the well.

MONITOR WELL - a well, as defined under "well" in this section, that is constructed for the purpose of determining water levels, monitoring chemical, bacteriological, radiological, or other physical properties of ground water or vadose zone water.

NATIONAL SANITATION FOUNDATION (NSF) - a voluntary third party consensus standards and testing entity established under agreement with the U. S. Environmental Protection Agency (EPA) to develop testing and adopt standards and certification programs for all direct and indirect drinking water additives and products.

Information may be obtained from: NSF, 3475 Plymouth Road, P O Box 1468, Ann Arbor, Michigan 48106.

NEAT CEMENT GROUT - cement conforming to the ASTM Standard C150 (standard specification of Portland cement), with no more than six gallons of water per 94 pound sack (one cubic foot) of cement of sufficient weight density of not less than 15 lbs/gallon.

OPERATOR - a drill rig operator is an individual who

works under the direct supervision of a licensed Utah Water Well Driller and who can be left in responsible charge to construct water wells using equipment that is under the direct control of the licensee.

PITLESS ADAPTER OR UNIT - an assembly of parts designed for attachment to a well casing which allows buried pump discharge from the well and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while preventing contaminants from entering the well. Such devices protect the water and distribution lines from temperature extremes, permit extension of the casing above ground as required in Subsection R655-4-9.3.2 and allow access to the well, pump or system components within the well without exterior excavation or disruption of surrounding earth or surface seal.

POLLUTION - the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any or reasonable purpose.

POTABLE WATER - water supplied for human consumption, sanitary use, or for the preparation of food or pharmaceutical products which is free from biological, chemical, physical, and radiological impurities.

PRESSURE GROUTING - a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

PRIVATE WATER PRODUCTION WELL - a privately owned well constructed to supply water for any purpose which has been approved by the state engineer (such as irrigation, stockwater, domestic, commercial, industrial, etc.).

PROBATION - A disciplinary action that may be taken by the state engineer that entails greater review and regulation of well drilling activities but which does not prohibit a well driller from engaging in the well drilling business or operating well drilling equipment.

PROVISIONAL WELL - authorization granted by the state engineer to drill under a pending, unapproved water right or exchange; or for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source.

PUBLIC WATER SYSTEM SUPPLY WELL - a well, either publicly or privately owned, providing water for human consumption and other domestic uses which has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year.

PUMPING LEVEL - the elevation of the surface of the water in a well after a period of pumping at a given rate.

REVOCATION - A disciplinary action that may be taken by the state engineer that rescinds the well driller's Utah Water Well Driller's License

SAND - a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

SAND CEMENT GROUT - a grout consisting of equal parts of cement conforming to ASTM standard C150 and sand/aggregate with no more than six (6) gallons of water per 94 pound sack (one cubic foot) of cement.

STANDARD DIMENSION RATIO (SDR) - the ratio of average outside pipe diameter to minimum pipe wall thickness.

STATE ENGINEER - the director of the Utah Division of Water Rights or any employee of the Division of Water Rights designated by the state engineer to act in administering these rules.

STATIC LEVEL - stabilized water level in a non-pumped well beyond the area of influence of any pumping well.

SURETY BOND - an indemnity agreement in a sum certain and payable to the state engineer, executed by the

licensee as principal and which is supported by the guarantee of a corporation authorized to transact business as a surety in the State of Utah.

SUSPENSION - A disciplinary action that may be taken by the state engineer that prohibits the well driller from engaging in the well drilling business or operating well drilling equipment as a registered operator for a definite period of time and /or until certain conditions are met.

TREMIE PIPE - a device that carries materials to a designated depth in a drill hole or annular space.

UNCONSOLIDATED FORMATION - loose, soft, incoherent rock material composed of sedimentary, igneous, or metamorphic rock which includes sand, gravel, and mixtures of sand and gravel. These formations are widely distributed and can possess good water storage and transmissivity characteristics.

UNHYDRATED BENTONITE - dry bentonite consisting primarily of granules, tablets, pellets, or chips that may be placed in a well or borehole in the dry state and hydrated in place by either formation water or by the addition of potable water into the well or borehole containing the dry bentonite. Unhydrated bentonite can be used for sealing and abandonment of wells.

VADOSE ZONE - the zone containing water under less than atmospheric pressure, including soil water, intermediate vadose water and capillary water. The zone extends from land surface to the zone of saturation or water table.

WELL - a horizontal or vertical excavation or opening into the ground made by digging, boring, drilling, jetting, augering, or driving or any other artificial method for utilizing or monitoring underground waters.

WELL DRILLER - any person who is licensed by the state engineer to construct water wells for compensation or otherwise. The licensed driller has total responsibility for the construction work in progress at the well drilling site.

WELL DRILLER BOND - A financial guarantee to the state engineer, in the form of a surety bond or cash bond, by which a licensed driller binds himself to pay the penal sum of \$5,000 to the state engineer in the event of significant noncompliance with the Administrative Rules for Water Well Drillers.

WELL DRILLING - the act of drilling, constructing, repairing, renovating, or deepening, cleaning, developing, or abandoning a well.

R655-4-3. Licenses and Registrations.

3.1 General.

3.1.1 Section 73-3-25 of the Utah Code requires every person that constructs a well in the state to obtain a license from the state engineer. Licenses and registrations are not transferable.

3.1.2 Any person found to be drilling a well without a valid well driller's license or operator's registration will be ordered to cease drilling by the state engineer. The order may be made verbally but must also be followed by a written order. The order may be posted at an unattended well drilling site. A person found drilling without a license will be prosecuted under Section 73-3-26 of the Utah Code annotated, 1953.

3.2 Well Driller's License.

An applicant must meet the following requirements to become licensed as a Utah Water Well Driller:

3.2.1 Applicants must be 21 years of age or older.

3.2.2 Complete and submit the application form provided by the state engineer.

3.2.3 Pay the application fee approved by the state legislature.

3.2.4 Provide documentation of at least two (2) years of full time prior water well drilling experience OR documentation of 15 wells constructed by the applicant under the supervision

of a licensed well driller. A copy of the well log for each well constructed must be included. The documentation must also show the applicant's experience with each type of drilling rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, letters from licensed well drillers (Utah or other states), or a water well drilling license granted by another state, etc.

Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, 12 months of drilling experience, and for up to, but not exceeding, five (5) of the required drilled wells. The state engineer will determine the number of months of drilling experience and the number of drilled wells that will be credited for the classroom study.

3.2.5 File a well driller bond in the sum of \$5,000 with the Division of Water Rights payable to the state engineer. The well driller bond must be filed under the conditions and criteria described in Section 4-3.6.

3.2.6 Obtain a score of at least 70% on each of the written licensing examinations required and administered by the state engineer. The required examinations test the applicant's knowledge of:

a. The Administrative Rules for Water Well Drillers and Utah water law as it pertains to underground water;

b. The minimum construction standards established by the state engineer for water well construction;

c. Geologic formations and proper names used in describing underground material types;

d. Reading maps and locating points from descriptions based on section, township, and range;

e. Groundwater geology and the occurrence and movement of groundwater;

f. The proper operating procedures and construction methods associated with the various types of water well drilling rigs. (A separate test is required for each type of water well drilling rig to be listed on the license).

3.2.7 Demonstrate proficiency in resolving problem situations that might be encountered during the construction of a water well by passing an oral examination administered by the state engineer.

3.3 Drill Rig Operator's Registration.

An applicant must meet the following requirements to become registered as a drill rig operator:

3.3.1 Applicants must be 18 years of age or older.

3.3.2 Complete and submit the application form provided by the state engineer.

3.3.3 Pay the application fee approved by the state legislature.

3.3.4 Provide documentation of at least six (6) months of prior water well drilling experience. The documentation must show the applicant's experience with each type of drilling rig to be listed on the registration. Acceptable documentation will include letters from licensed well drillers or registration as an operator in another state.

3.3.5 Obtain a score of at least 70% on a written examination of the minimum construction standards established by the state engineer for water well construction. The test will be provided to the licensed well driller by the state engineer. The licensed well driller will administer the test to the prospective operator and return it to the state engineer for scoring.

3.4 Conditional, Restricted, or Limited Licenses.

The state engineer may issue a restricted, conditional, or limited license to an applicant based on prior drilling experience.

3.5 Refusal to Issue a License or Registration.

The state engineer may, upon investigation and after a hearing, refuse to issue a license or a registration to an applicant if it appears the applicant has not had sufficient training or

experience to qualify as a competent well driller or operator.

3.6 Well Driller Bond.

3.6.1 General

3.6.1.1. In order to become licensed and to continue licensure, a well driller must file a well driller bond in the form of a surety bond or cash bond, approved by the state engineer, in the sum of five thousand dollars (\$5,000) with the Division of Water Rights, on a form provided by the Division, which is conditioned upon proper compliance with the law and these rules and which is effective for the licensing period in which the license is to be issued. The bond shall stipulate the obligee as the "Office of the State Engineer". The well driller bond is penal in nature and is designed to ensure compliance by the licensed well driller to protect the groundwater resource, the environment, and public health and safety. The bond may only be exacted by the state engineer for the purposes of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. No other person or entity may initiate a claim against the well driller bond. Lack of a current and valid well driller bond shall be deemed sufficient grounds for denial of a driller's license. The well driller bond may consist of a surety bond or a cash bond as described below.

3.6.2 Surety Bonds.

3.6.2.1. The licensed well driller and a surety company or corporation authorized to do business in the State of Utah as surety shall bind themselves and their successors and assigns jointly and severally to the state engineer for the use and benefit of the public in full penal sum of five thousand dollars (\$5,000). The surety bond shall specifically cover the licensee's compliance with the Administrative Rules for Water Well Drillers found in R655-4 of the Utah Administrative Code. Forfeiture of the surety bond shall be predicated upon a failure to drill, construct, repair, renovate, deepen, clean, develop, or abandon a regulated well in accordance with these rules (R655-4 UAC). The bond shall be made payable to the 'Utah State Engineer' upon forfeiture. The surety bond must be effective and exactable in the State of Utah.

3.6.2.2. The bond and any subsequent renewal certificate shall specifically identify the licensed individual covered by that bond. The licensee shall notify the state engineer of any change in the amount or status of the bond. The licensee shall notify the state engineer of any cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the expiration of the 30-days notice of cancellation, the licensee shall deliver to the state engineer a replacement surety bond or transfer to a cash bond. If such a bond is not delivered, all activities covered by the license and bond shall cease at the expiration of the 30 day period. Termination shall not relieve the licensee or surety of any liability for incidences that occurred during the time the bond was in force.

3.6.2.3. Before the bond is forfeited by the licensed driller and exacted by the state engineer, the licensed driller shall have the option of resolving the noncompliance to standard either by personally doing the work or by paying to have another licensed driller do the work. If the driller chooses not to resolve the problem that resulted in noncompliance, the entire bond amount of five thousand dollars (\$5,000) shall be forfeited by the surety and expended by the state engineer to investigate, repair or abandon the well(s) in accordance with the standards in R655-4 UAC. Any excess there from shall be retained by the state engineer and expended for the purpose of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. All claims initiated by the state engineer against the surety bond will be made in writing.

3.6.2.4. The bond of a surety company that has failed, refused or unduly delayed to pay, in full, on a forfeited bond is not approvable.

3.6.3 Cash Bonds.

3.6.3.1. The requirements for the well driller bond may alternatively be satisfied by a cash bond in the form of a certificate of deposit (CD) for the amount of five thousand dollars (\$5,000) issued by a federally insured bank or credit union with an office(s) in the State of Utah. The cash bond must be in the form of a CD. Savings accounts, checking accounts, letters of credit, etc., are not acceptable cash bonds. The CD shall specifically identify the licensed individual covered by that fund. The CD shall be automatically renewable and fully assignable to the state engineer. CD shall state on its face that it is automatically renewable.

3.6.3.2. The cash bond shall specifically cover the licensee's compliance with well drilling rules found in R655-4 of the Utah Administrative Code. The CD shall be made payable or assigned to the state engineer and placed in the possession of the state engineer. If assigned, the state engineer shall require the bank or credit union issuing the CD to waive all rights of setoff or liens against those CD. The CD, if a negotiable instrument, shall be placed in the state engineer's possession. If the CD is not a negotiable instrument, the CD and a withdrawal receipt, endorsed by the licensee, shall be placed in the state engineer's possession.

3.6.3.3. The licensee shall submit CDs in such a manner which will allow the state engineer to liquidate the CD prior to maturity, upon forfeiture, for the full amount without penalty to the state engineer. Any interest accruing on a CD shall be for the benefit of the licensee.

3.6.3.4. The period of liability for a cash bond is five (years) after the expiration, suspension, or revocation of the license. The cash bond will be held by the state engineer until the five year period is over, then it will be relinquished to the licensed driller. In the event that a cash bond is replaced by a surety bond, the period of liability, during which time the cash bond will be held by the state engineer, shall be five (5) years from the date the new surety bond becomes effective.

3.6.4 Exacting a Well Driller Bond.

3.6.4.1. If the state engineer determines, following an investigation and a hearing in accordance with the process defined in Section 4-5, that the licensee has failed to comply with the Administrative Rules for Water Well Drillers and refused to remedy the noncompliance, the state engineer may suspend or revoke a well driller's license and fully exact the well driller bond and deposit the money as a non-lapsing dedicated credit.

3.6.4.2. The state engineer may expend the funds derived from the bond to investigate or correct any deficiencies which could adversely affect the public interest resulting from non-compliance with the Administrative Rules by any well driller.

3.6.4.3. The state engineer shall send written notification by certified mail, return receipt requested, to the licensee and the surety on the bond, if applicable, informing them of the determination to exact the well driller bond. The state engineer's decision regarding the noncompliance will be attached to the notification which will provide facts and justification for bond exactation. In the case of a surety bond exactation, the surety company will then forfeit the total bond amount to the state engineer. In the case of a cash bond, the state engineer will cash out the CD. The exacted well driller bond funds may then be used by the state engineer to cover the costs of well investigation, repair, and/or abandonment.

R655-4-4. Administrative Requirements and General Procedures.

4.1 Authorization to Drill.

The well driller shall make certain that a valid authorization or approval to drill exists before beginning drilling or work on a well. Authorization to drill shall consist of a valid 'start card' based on any of the approvals listed below. Items 4.1.1 through 4.1.11 allow the applicant to contract with a well

driller to drill, replace, renovate, or abandon exactly one well at each location listed on the start card or approval form. The drilling of multiple borings/wells at an approved location/point of diversion is not allowed without authorization from the state engineer's office. Most start cards list the date when the authorization to drill expires. If the expiration date has passed, the start card is no longer valid. If there is no expiration date on the start card, the driller must contact the state engineer's office to determine if the authorization to drill is still valid. When the work is completed, the permission to drill is terminated.

4.1.1 An approved application to appropriate.

4.1.2 A provisional well approval letter.

An approved provisional well letter grants authority to drill but allows only enough water to be diverted to determine the characteristics of an aquifer or the existence of a useable groundwater source.

4.1.3 An approved permanent change application.

4.1.4 An approved exchange application.

4.1.5 An approved temporary change application.

4.1.6 An approved application to renovate or deepen an existing well.

4.1.7 An approved application to replace an existing well.

4.1.8 An approved monitor well letter.

An approved monitor well letter grants authority to drill but allows only enough water to be diverted to monitor groundwater.

4.1.9 An approved heat exchange well letter.

4.1.10 An approved cathodic protection well letter.

4.1.11 Any letter or document from the state engineer directing or authorizing a well to be drilled or work to be done on a well.

4.2 Start Cards.

4.2.1 Prior to commencing any work (other than abandonment, see 4.2.4) on any well governed by these administrative rules, the driller must notify the state engineer of that intention by transmitting the information on the "Start Card" to the state engineer by telephone, by facsimile (FAX), by hand delivery, or by e-mail. A completed original Start Card must be sent to the state engineer by the driller after it has been telephoned or E-mailed.

4.2.2 A specific Start Card is printed for each well drilling approval and is furnished by the state engineer to the applicant or the well owner. The start card is preprinted with the water right number/provisional/monitor well number, owner name/address, and the approved location of the well. The state engineer marks the approved well drilling activity on the card. The driller must put the following information on the card:

- a. The date on which work on the well will commence;
- b. The projected completion date of the work;
- c. The well driller's license number;
- d. The well driller's signature.

4.2.3 When a single authorization is given to drill wells at more than one point of diversion, a start card shall be submitted for each location to be drilled.

4.2.4 A start card is not required to abandon a well. However, prior to commencing well abandonment work, the driller is required to notify the state engineer by telephone, by facsimile, or by e-mail of the proposed abandonment work. The notice must include the location of the well. The notice should also include the water right number associated with the well and the well owner if that information is available.

4.3 General Requirements During Construction.

4.3.1 The well driller shall have the required penal bond continually in effect during the term of the well driller's license.

4.3.2 The well driller's license number or the well driller's company name exactly as shown on the well drilling license must be prominently displayed on each well drilling rig operated under the well driller's license. If the well driller's company name is changed the well driller must immediately inform the

state engineer of the change in writing.

4.3.3 A licensed well driller or a registered operator must be at the well site whenever the following aspects of well construction are in process: advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well renovation or repair, or abandoning a well. All registered operators working under a well driller's license must be employees of the well driller and must use equipment either owned by or leased by the licensed well driller.

4.3.4 A registered operator who is left in responsible charge of advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well renovation or repair, or abandoning a well must have a working knowledge of the minimum construction standards and the proper operation of the drilling rig. The licensed well driller is responsible to ensure that a registered operator is adequately trained to meet these requirements. If, during a field inspection by the staff of the Division of Water Rights, it is determined that a registered operator in responsible charge does not meet these requirements, a state engineer's red tag (see Section 4.3.5) will be placed on the drilling rig and the drilling operation will be shut down. The order to cease work will remain effective until a qualified person is available to perform the work.

4.3.5 The state engineer or staff of the Division of Water Rights may order that work cease on the construction, repair, or abandonment of a well if a field inspection reveals that the construction does not meet the minimum construction standards to the extent that the public interest might be adversely affected. A cease work order may also be issued if the well driller is not licensed for the drilling method being used for the well construction. The state engineer's order will be in the form of a red tag which will be attached to the drilling rig. A letter from the state engineer will be sent to the licensed driller to explain the sections of the administrative rules which were violated. The letter will also explain the requirements that must be met before the order can be lifted.

4.3.6 When required by the state engineer, the well driller or registered operator shall take lithologic samples at the specified intervals and submit them in the bags provided by the state engineer.

4.3.7 A copy of the current Administrative Rules for Water Well Drillers should be available at each well construction site for review by the construction personnel.

4.4 Removing Drill Rig From Well Site.

4.4.1 A well driller shall not remove his drill rig from a well site unless the well is completed or abandoned. Completion of a well shall include all surface seals, gravel packs, or curbs required.

4.4.2 For the purposes of these rules, the construction, repair or abandonment work on a well will be considered completed when the well driller removes his drilling rig from the well site.

4.4.3 The well driller may request a variance from the state engineer. The written request must indicate that the well has been temporarily abandoned as provided in Section R655-4-12 and must give the date when the well driller plans to continue work.

4.5 Official Well Driller's Report (Well Log).

4.5.1 Within 30 days of the completion of work on any well, the driller shall file an official well driller's report (well log) with the state engineer. The blank well log form will be mailed to the licensed well driller upon receipt of the information on the Start Card as described in Subsection 4.2.

4.5.2 The water right number/provisional/monitor well number, owner name/address, and the approved location of the well will be preprinted on the blank well log provided to the well driller. The driller is required to verify this information

and make any necessary changes on the well log prior to submittal. The state engineer will mark the approved activity (e.g., new, replace, repair, deepen) on the well log. The driller must provide the following information on the well log:

- a. The start and completion date of work on the well;
- b. The nature of use for the well (e.g., domestic, irrigation, stock watering, commercial, municipal, provisional, monitor, cathodic protection, heat pump, etc.);
- c. The borehole diameter, depth interval, drilling method and drilling fluids utilized to drill the well;
- d. The lithologic log of the well based on strata samples taken from the borehole as drilling progresses;
- e. Static water level information to include date of measurement, static level, measurement method, reference point, artesian flow and pressure, and water temperature;
- f. The size, type, description, joint type, and depth intervals of casing, screen, and perforations;
- g. A description of the filter pack, surface and interval seal material, and packers used in the well along with necessary related information such as the depth interval, quantity, and mix ratio;
- h. A description of the finished wellhead configuration;
- i. The date and method of well development;
- j. The date, method, yield, drawdown, and elapsed time of a well yield test;
- k. A description of pumping equipment (if available);
- l. Other comments pertinent to the well activity completed;
- m. The well driller's statement to include the driller name, license number, signature, and date.

4.5.3 Accuracy and completeness of the submitted well log are required. Of particular importance is the lithologic section which should accurately reflect the geologic strata penetrated during the drilling process. Sample identification must be logged in the field as the borehole advances and the information transferred to the well log form for submission to the state engineer.

4.5.4 An amended well log shall be submitted by the licensed driller if it becomes known that the original report contained inaccurate or incorrect information, or if the original report requires supplemental data or information. Any amended well log must be accompanied by a written statement, signed and dated by the licensed well driller, attesting to the circumstances and the reasons for submitting the amended well log.

4.6 Official Well Abandonment Reports (Abandonment Logs).

4.6.1 Whenever a well driller is contracted to replace an existing well under state engineer's approval, it shall be the responsibility of the well driller to inform the well owner that it is required by law to permanently abandon the old well in accordance with the provisions of Section R655-4-12.

4.6.2 Within 30 days of the completion of abandonment work on any well, the driller shall file an abandonment log with the state engineer. The blank abandonment log will be mailed to the licensed well driller upon notice to the state engineer of commencement of abandonment work as described in Subsection R655-4-4(4.2.4).

4.6.3 The water right number/provisional/monitor well number, owner name/address, and the well location (if available) will be preprinted on the blank abandonment log provided to the well driller. The driller is required to verify this information and make any necessary changes on the abandonment log prior to submitting the log. The driller must provide the following information on the abandonment log:

- a. Existing well construction information;
- b. Date of abandonment;
- c. Reason for abandonment;
- d. A description of the abandonment method;
- e. A description of the abandonment materials including

depth intervals, material type, quantity, and mix ratio;

- f. Replacement well information (if applicable);
- g. The well driller's statement to include the driller name, license number, signature, and date.

4.6.4 When a well is replaced and the well owner will not allow the driller to abandon the existing well, the driller must briefly explain the situation on the abandonment form and submit the form to the state engineer within 30 days of completion of the replacement well.

4.7 Incomplete or Incorrectly Completed Reports.

An incomplete well/abandonment log or a well/abandonment log that has not been completed correctly will be returned to the licensed well driller to be completed or corrected. The well log will not be considered filed with the state engineer until it is complete and correct.

4.8 Extensions of Time.

The well driller may request an extension of time for filing the well log if there are circumstances which prevent the driller from obtaining the necessary information before the expiration of the 30 days. The extension request must be submitted in writing before the end of the 30-day period.

R655-4-5. Infractions of the Administrative Requirements and the Minimum Construction Standards.

5.1 List of Infractions and Points.

Licensed well drillers who commit the infractions listed below in Table 1 shall have assessed against their well drilling record the number of points assigned to the infraction.

	Points
Start Cards/Authorization	
Failure to properly notify the state engineer before the proposed start date shown on the start card	20
Performing any well drilling activity without valid authorization (except in emergency situations)	100
Well Logs	
Intentionally making a material misstatement of fact in an official well driller's report or amended official well driller's report (well log)	100
Well log submitted late	10
Well Abandonment	
Well abandonment report submitted late	10
Licenses	
Intentionally making a material misstatement of fact in the application for a well driller's license	100
Well driller license or well driller name not clearly posted on well drilling rig	10
Failing to notify the state engineer in a timely manner of a change in the well driller's company name	10
Operators / Contract Drillers	
Employing an operator who is not registered with the state	75
Contracting out work to an unlicensed driller (using the unlicensed driller's rig) without prior written approval from the state	75
Infractions of Construction Standards / Conditions	Points
Approvals	
Constructing a replacement well further than 150 ft from the original well without the	

authorization of an approved change application	50
Failing to comply with any conditions included on the well approval such as minimum or maximum depths, specified locations of perforations, etc.	50
Using a method of drilling not listed on the well driller's license	30
Performing any well construction activity in violation of a red tag cease work order	100
Casing	
Using or attempting to use sub-standard well casing	50
Using improper casing joints	40
Failure to extend well casing at least 18" above ground	30
Surface Seals	
Using improper products or procedures to install a surface seal	100
Failure to seal off artesian flow on the outside of casing	100
Failure to install surface seal to adequate depth based on formation type	100
Well Abandonment	
Using improper procedures to abandon a well	50
Using improper products to abandon a well	50
Construction Fluids	
Using water of unacceptable quality in the well drilling operation	40
Using improper circulation materials	30
Using an unacceptable mud pit	20
Filter Packs	
Failure to install filter pack properly	40
Failure to disinfect filter pack	30
Well Completion	
Failure to make well accessible to water level or pressure head measurements	30
Failure to install casing annular seals, cap, and valving, and to control artesian flow	30
Removing the well drilling rig from the well site before completing the well or temporarily or permanently abandoning the well	50
General	
Failure to securely cover an unattended well during construction	30

5.2 When Points Are Assessed.

Points will be assessed against a driller's record upon verification by the state engineer that an infraction has occurred. Points will be assessed at the time the state engineer becomes aware of the infraction regardless of when the infraction occurred.

5.3 Appeal of Infractions.

Well drillers may appeal each infraction in writing within 30 days of written notification by the state engineer.

5.4 Warning Letter.

When the number of points assessed against the well driller's record equals seventy-five (75) points, a warning letter will be sent to the well driller. The letter will notify the driller that if he continues to violate the administrative requirements or minimum construction standards contained in the Administrative Rules for Water Well Drillers, a hearing will be held to determine if his license should be suspended or revoked or the bond exacted. The letter will also describe the options available to the driller to delete points from the record as described in Subsection R655-4-5.7. A copy of the driller's infraction record will be included with the letter. In the event numerous points are assessed against the well drillers record so that the total surpasses seventy-five (75) and one hundred (100)

points at the same time, no warning letter will be sent.

5.5 Notice of Agency Action.

5.5.1 When the number of points assessed against the well driller's record equals 100, a Notice of Agency Action (NAA) will be sent to the well driller. The NAA will set forth the alleged facts, provide an opportunity for a response from the well driller, and provide notice of the hearing scheduled to consider the issues. The hearing will be scheduled at least 10 days from the date the NAA is mailed. The NAA will indicate the date, time, and place of the hearing.

5.5.2 A NAA may also be sent and a hearing may also be convened as a result of a complaint filed by a well owner regardless of the total number of points shown on the well driller's record.

5.5.3 The purpose of the hearing will be to determine if disciplinary action is necessary regarding the water well driller's Utah Water Well License. The hearing will be conducted informally according to the rules adopted under Sections 63-46b-4 and 63-46b-5, Utah Code. The hearing will be recorded. At the hearing, testimony will be taken under oath regarding the alleged facts included in the NAA. Those providing testimony may include the water well driller, the well owner, Division of Water Rights staff, and others as deemed necessary. Evidence that is pertinent to the alleged facts may also be presented at the hearing. After considering the testimony and the evidence presented at the hearing, the State Engineer may determine either that there is no cause for action against the well driller's license or that disciplinary action is necessary. Disciplinary action may consist of probation, suspension, or revocation of the Utah Water Well License.

5.6 License Probation, Suspension or Revocation.

5.6.1 Probation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe first time infractions of the administrative rules that are limited in number and less serious in their impact on the well owner and on the health of the aquifer. The probation period will generally last until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5.7.

5.6.2 Suspension will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated infractions of the administrative rules, or infractions that a pose serious threat to the health of the aquifer, or a well driller's apparent disregard for the administrative rules or the state's efforts to regulate water well drilling. Depending upon the number and severity of the rule infractions, the state engineer may elect to suspend a well driller license for a certain period of time and/or until certain conditions have been met by the well driller. In establishing the length of the suspension, the state engineer will generally follow the guideline that three infraction points is the equivalent of one day of suspension. A well driller whose license has been suspended will be prohibited from engaging in the well drilling business or operating well drilling equipment as a registered operator. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.6.4. A well driller whose license has been suspended is allowed to work as a helper under the direct, continuous, and on-site supervision of a licensed well driller or registered operator. If the suspension period extends beyond the expiration date of the water well license, the water well driller may not apply to renew the license until the suspension period has run and any conditions have been met. Once the suspension period has run and once any conditions have been met by the well driller, the suspension will be lifted and the driller will be notified that he/she may again engage in the well drilling business. The well driller will then be placed on probation until the number of infraction points on the well driller's record is reduced below 70 through any of the

options described in Subsection 4-5.7.

5.6.3 Revocation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe infractions of the administrative rules for which the well driller's Utah Water Well License has previously been suspended. A well driller whose license has been revoked will be prohibited from engaging in the well drilling business or operating well drilling equipment as a registered operator. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.6.4. A well driller whose license has been revoked is allowed to work as a helper under the direct, continuous, and on-site supervision of a licensed well driller or registered operator. A well driller whose water well license has been revoked may not make application for a new water well license for a period of two years from the date of revocation. After the revocation period has run, a well driller may make application for a new license as provided in Section R655-4-3. However, the well drilling experience required must be based on new experience obtained since the license was revoked.

5.7 Deleting Point from the Driller Record.

Points assessed against a well driller's record will remain on the record unless deleted through any of the following options:

5.7.1 Points will be deleted three years after the date when the infraction is noted by the state engineer and the points are assessed against the driller's record.

5.7.2 One half the points on the record will be deleted if the well driller is free of infractions for an entire year.

5.7.3 Thirty (30) points will be deleted for obtaining six (6) hours of approved continuing education credits in addition to the credits required to renew the water well driller's license. A driller may exercise this option only once each year.

5.7.4 Twenty (20) points will be deleted for taking and passing (with a minimum score of 70%) the test covering the administrative requirements and the minimum construction standards. A driller may exercise this option only every other year.

5.8 Lack of Knowledge Not an Excuse.

Lack of knowledge of the law or the administrative requirements and minimum construction standards related to well drilling shall not constitute an excuse for violation thereof.

5.9 Misdemeanors.

Section 73-3-26 of the Utah Code annotated, 1953, classifies certain actions as class B Misdemeanors. Each day that a violation continues is a separate offense.

R655-4-6. Renewal of Well Driller's License and Operator's Registration.

6.1 Well Driller's Licenses.

6.1.1 Water well driller licenses shall expire and be renewed according to the following provisions:

a. Between January 1, 2004 and June 30, 2006 water well driller licenses shall expire and be renewed according to the following schedule:

1. The licenses of water well drillers whose last name begins with A thru L shall not expire on December 31, 2004 but shall expire at 12 midnight on June 30, 2005. The continuation of the license will depend on documentation of a valid \$5,000 well driller bond for the period thru June 30, 2005. Well drillers whose licenses expire on June 30, 2005 and who meet the application requirements of R655-4-6(6.1.2) including the documentation of nine (9) continuing education credits, shall receive a license that expires on June 30, 2007.

2. The licenses of water well drillers whose last name begins with M thru Z shall expire at midnight on December 30, 2004. Well drillers whose last name begins with M thru Z and who meet the application requirements of R655-4-6(6.1.2) shall receive a license that expires on June 30, 2006. The \$5,000 well

driller bond must be valid for the period January 1, 2005 through June 30, 2006. Well drillers whose licenses expire on June 30, 2006 and who meet the application requirements of R655-4-6(6.1.2) including the documentation of nine (9) continuing education credits, shall receive a renewed license for the a 2 year period.

b. After June 30, 2005, the licenses of well drillers whose last name begins with A thru L shall expire at 12 midnight on June 30 of odd numbered years.

c. After June 30, 2006, the licenses of well drillers whose last name begins with M thru Z shall expire at 12 midnight on June 30 of even numbered years.

d. Drillers who meet the renewal requirements set forth in Subsection R655-4-6(6.1.2) on or before the expiration deadlines set forth in Subsection R655-4-6(6.1.1) shall be authorized to operate as a licensed well driller until the new license is issued.

e. Drillers must renew their licenses within 24 months of the license expiration date. Drillers failing to renew within 24 months of the license expiration date must re-apply for a well driller's license, meet all the application requirements of Subsection R655-4-3(3.2), and provide documentation of 12 hours of continuing education according to the requirements of R655-4-6 (6.2) obtained within the previous 24 months.

6.1.2 Applications to renew a well driller's license must include the following items:

a. Payment of the license renewal fee determined and approved by the legislature;

b. Written application to the state engineer;

c. Documentation of continuing well driller bond coverage in the amount of five thousand dollars (\$5,000) penal bond for the next licensing period calendar year. The form and conditions of well driller bond shall be as set forth in Section 4.3. Allowable documentation can include bond continuation certificates and CD statements;

d. Proper submission of all start cards, official well driller reports (well logs), and well abandonment reports for the current calendar year;

e. Documentation of compliance with the continuing education requirements described in Section 6.2.1. Acceptable documentation of attendance at approved courses must include the following information: the name of the course, the date it was conducted, the number of approved credits, the name and signature of the instructor and the driller's name; for example, certificates of completion, transcripts, attendance rosters, diplomas, etc. (Note: drillers are advised that the state engineer will not keep track of the continuing education courses each driller attends during the year. Drillers are responsible to acquire and then submit documentation with the renewal application.)

6.1.3 License renewal applications that do not meet the requirements of Subsection R655-5-6(6.1.2) by June 30 of the expiration year or which are received after June 30 of the expiration year, will be assessed an additional administrative late fee determined and approved by the legislature.

6.1.4 The state engineer may renew a license on a restricted, conditional, or limited basis according to the driller's performance and compliance with established rules and construction standards. The state engineer may refuse to renew a license to a well driller if it appears that there has been a violation of these rules or a failure to comply with Section 73-3-22 of the Utah Code.

6.2 Continuing Education.

6.2.1 During each license period, licensed well drillers are required to earn at least twelve (12) continuing education credits by attending training sessions sponsored or sanctioned by the state engineer. Drillers who do not renew their licenses, but who intend to renew within the following 24 month period allowed in Section 6.1.1, are also required to earn twelve (12)

continuing education credits.

6.2.2 The state engineer shall establish a committee consisting of the state engineer or a representative, no more than four licensed well drillers, a ground water scientist, and a manufacturer/supplier of well drilling products. The committee will develop criteria for the training courses, approve the courses which can offer continuing education credits, and assign the number of credits to each course. The committee will make recommendations to the state engineer concerning appeals from training course sponsors and well drillers related to earning continuing education credit.

6.2.3 The committee established in Section 6.2.2 shall assign the number of continuing education credits to each proposed training session based on the instructor's qualifications, a written outline of the subjects to be covered, and written objectives for the session. Well drillers wishing continuing education credit for other training sessions shall provide the committee with all information it needs to assign continuing education requirements.

6.2.4 Licensed drillers must complete a State Engineer-sponsored "Administrative Rules for Well Drillers" review course or other approved rules review once every four (4) years.

6.2.5 CE credits cannot be carried over from one licensing period to another.

6.3 Drill Rig Operator's Registration.

6.3.1 All operator's registrations shall expire at the same time as the license of the well driller by whom they are employed. Operators who meet the renewal requirements set forth in Subsection R655-4-6(6.3.2) on or before 12 midnight June 30 of the expiration year shall be authorized to act as a registered operator until the new registration is issued. Operators must renew their registrations within 24 months of the registration expiration date. Operators failing to renew within 24 months of the registration expiration date must re-apply for an operator's registration and meet all the application requirements of Subsection R655-4-3(3.3).

6.3.2 Applications to renew an operator's registration must include the following items:

- a. Payment of the registration renewal fee determined and approved by the legislature;
- b. Written application to the state engineer.

6.3.3 Registration renewal applications that do not meet the requirements of Subsection R655-4-6(6.3.2) by the June 30 expiration date or that are received after the June 30 expiration date will be assessed an additional administrative late fee determined and approved by the legislature.

R655-4-7. The Approval Process for Cathodic Protection Wells, Heating, or Cooling Exchange Wells and Monitor Wells.

7.1 General.

Only cathodic protection wells, heating or cooling exchange wells, and monitor wells drilled and constructed to a depth of 30 feet or greater below natural ground surface require approval from the state engineer.

7.2 Approval to Construct or Replace.

Approval to construct or replace cathodic protection wells, heating or cooling exchange wells, and monitor wells is issued by the state engineer's regional offices following review of written requests from the owner or applicant, federal or state agency or engineering representative. The requests for approval shall be made on forms provided by the state engineer entitled "Request for Non-Production Well Construction". The following information must be included on the form:

- a. General location or common description of the project.
- b. Specific course and distance locations from established government surveyed outside section corners or quarter corners.
- c. Total anticipated number of wells to be installed.
- d. Diameters, approximate depths and materials used in the

wells.

- e. Projected start and completion dates.
- f. Name and license number of the driller contracted to install the wells.

There is no fee required to request approval to drill a cathodic protection well, a heating or cooling exchange well, or a monitor well. Upon written approval by the state engineer, the project will be assigned an approved authorization number which will be referenced on all start cards and official well driller's reports.

R655-4-8. General Requirements.

8.1 Standards.

8.1.1 In some locations, the compliance with the following minimum standards will not result in a well being free from pollution or from being a source of subsurface leakage, waste, or contamination of the groundwater resource. Since it is impractical to attempt to prepare standards for every conceivable situation, the well driller shall judge when to construct wells under more stringent standards when such precautions are necessary to protect the groundwater supply and those using the well in question. Other state and local regulations pertaining to well drilling and construction, groundwater protection, and water quality regulations may exist that are either more stringent than these rules or that specifically apply to a given situation. It is the well driller's responsibility to understand and apply other regulations as applicable.

8.2 Well Site Locations.

8.2.1 Well site locations are described by course and distance from outside section corners or quarter corners (based on a Section/Township/Range Cadastral System) on all state engineer authorizations to drill (Start Cards). However, the licensee should also be familiar with local zoning ordinances, or county boards of health requirements which may limit or restrict the actual well location and construction in relationship to existing or proposed concentrated sources of pollution or contamination such as septic tanks, drain fields, sewer lines, stock corrals, feed lots, etc. The licensee should also be familiar with the Utah Underground Facilities Act (Title 54, Chapter 8a of the Utah Code Annotated 1953 as amended) which requires subsurface excavators (including well drilling) to notify operators of underground utilities prior to any subsurface excavation. Information on this requirement can be found by calling (800)662-4111.

8.2.2 The driller shall check the drilling location to see if it generally matches the state-approved location listed on the Driller's Start Card. If the actual drilling location is significantly different than the Start Card location, the driller shall indicate the difference on the Well Log.

8.3 Unusual Conditions.

8.3.1 If unusual conditions occur at a well site and compliance with these rules and standards will not result in a satisfactory well or protection to the groundwater supply, a licensed water well driller shall request that special standards be prescribed for a particular well. The request for special standards shall be in writing and shall set forth the location of the well, the name of the owner, the unusual conditions existing at the well site, the reasons that compliance with the rules and minimum standards will not result in a satisfactory well, and the proposed standards that the licensed water well driller believes will be more adequate for this particular well. If the state engineer finds that the proposed changes are in the best interest of the public, he will approve the proposed changes by assigning special standards for the particular well under consideration.

R655-4-9. Well Drilling and Construction Requirements.

9.0 General.

9.0.1 Figures 1 through 5 are used to illustrate typical well

construction standards, and can be viewed in the State of Utah Water Well Handbook available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah. Figure 1 illustrates the typical construction of a drilled well with driven casing such as a well drilled using the cable tool method or air rotary with a drill-through casing driver. Figure 2 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed without the use of surface casing. Figure 3 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed with the use of surface casing. Figure 4 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed completed in stratified formations in which poor formation material or poor quality water is encountered. Figure 5 illustrates the typical construction of a well completed with PVC or nonmetallic casing.

9.1 Approved Products, Materials, and Procedures.

9.1.1 Any product, material or procedure designed for use in the drilling, construction, cleaning, renovation, development or abandonment of water or monitor wells, which has received certification and approval for its intended use by the National Sanitation Foundation (NSF) under ANSI/NSF Standard 60 or 61, the American Society for Testing Materials (ASTM), the American Water Works Association (AWWA) or the American National Standards Institute (ANSI) may be utilized. Other products, materials or procedures may also be utilized for their intended purpose upon manufacturers certification that they meet or exceed the standards or certifications referred to in this section.

9.2 Well Casing - General

9.2.1 Drillers Responsibility. It shall be the sole responsibility of the well driller to determine the suitability of any type of well casing for the particular well being constructed, in accordance with these minimum requirements.

9.2.2 Casing Stick-up. The well casing shall extend a minimum of 18 inches above finished ground level and the natural ground surface should slope away from the casing. A sanitary, weatherproof seal or a completely welded cap shall be placed on the top of the well casing to prevent contamination of the well. If a vent is placed in the cap, it shall be properly screened to prevent access to the well by debris, insects, or other animals.

9.2.3 Steel Casing. All steel casing installed in Utah shall be in new or like-new condition, being free from pits or breaks, and shall meet the minimum specifications listed in Table 2 of these rules. In order to utilize steel well casing that does not fall within the categories specified in Table 2, the driller shall receive written approval from the state engineer. All steel casing installed in Utah shall meet or exceed the minimum ASTM, ANSI, or AWWA standards for steel pipe as described in Subsection 9.1. Applicable standards (most recent revisions) may include:

- ANSI/AWWA A100-AWWA Standard for Water Wells.
- ANSI/ASTM A53-Standard Specifications for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.
- ANSI/ASTM A139-Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (NPS 4 and over).
- ANSI/ASTM A606-Standard Specification for Steel, Sheet, and Strip, High-Strength, Low-Alloy, Hot-Rolled and Cold-Rolled, with Improved Atmospheric Corrosion Resistance.
- ANSI/AWWA C200-Standard for Steel Water Pipe-6 in. and Larger.
- API Spec.5L-Specification for Liner Pipe.
- ASTM A778-Standard Specifications for Welded, Unannealed Austenitic Stainless Steel Tubular Products.
- ASTM A252-Standard Specification for Welded and Seamless Steel Pipe Piles.

TABLE 2
MINIMUM WALL THICKNESS FOR STEEL WELL CASING

Depth	0		200		300		400		600		800		1000		1500		
	Nominal	to															
Casing	200	300	400	600	800	1000	1500	2000									
Diameter	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)									
2	.154	.154	.154	.154	.154	.154	.154	.154									
3	.216	.216	.216	.216	.216	.216	.216	.216									
4	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237	.237
5	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250
6	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250
8	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250
10	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.312	.312	.312	.312
12	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.250	.312	.312	.312	.312
14	.250	.250	.250	.250	.250	.250	.250	.312	.312	.312	.312	.312	.312	.312	.312	.312	.312
16	.250	.250	.312	.312	.312	.312	.312	.312	.312	.312	.312	.312	.312	.375	.375	.375	.375
18	.250	.312	.312	.312	.312	.312	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.438
20	.250	.312	.312	.312	.312	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.438
22	.312	.312	.312	.312	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.438
24	.312	.312	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.375	.438
30	.312	.375	.375	.438	.438	.438	.438	.438	.438	.438	.438	.438	.438	.438	.438	.438	.500

Note: Minimum wall thickness is in inches.

9.2.4 Plastic and Other Non-metallic Casing.

9.2.4.1 Materials. PVC, SR, ABS, or other types of non-metallic well casing and screen may be installed in Utah upon obtaining permission of the well owner. Plastic well casing and screen shall be manufactured and installed to conform with The American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) Standard F 480 (most recent version), which are incorporated by reference to these rules. Casing and screen meeting this standard is normally marked "WELL CASING" and with the ANSI/ASTM designation "F 480-95 (or most recent version), SDR-17 (or 13.5)". All plastic casing and screen for use in potable water supplies shall be manufactured to be acceptable to the American National Standards Institute/National Sanitation Foundation (NSF) standard 61. Other types of plastic casings and screens may be installed upon manufacturers certification that such casing meets or exceeds the above described ASTM/SDR specification or ANSI/NSF approval.

9.2.4.2 Minimum Wall Thickness and Depth Requirements. PVC well casing and screen with an outside diameter equal to or less than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480 (most recent version) SDR 21 or a Schedule 40 designation. PVC well casing and screen with an outside diameter greater than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480 (most recent version) SDR 17 or a Schedule 80 designation. Additionally, caution should be used whenever other than factory slots or perforations are added to PVC well casing. The installation of hand cut slots or perforations significantly reduces the collapse strength tolerances of unaltered casings. The depth at which plastic casing and screen is placed in a well shall conform to the minimum requirements and restrictions as outlined in ASTM Standard F-480 (most recent version).

9.2.4.3 Fiberglass Casing. Fiberglass reinforced plastic well casings and screens may be installed in wells upon obtaining permission of the well owner. All fiberglass casing or screens installed in wells for use in potable water supplies shall be manufactured to be acceptable by ANSI/NSF Standard 61.

9.2.4.4 Driving Non-metallic Casing. Non-metallic casing shall not be driven or dropped and may only be installed in an oversized borehole.

9.2.4.5 Protective Casing. If plastic or other non-metallic casing is utilized, the driller shall install a protective steel casing which complies with the provisions of Subsection 9.2.3 or an equivalent protective covering approved by the state engineer over and around the well casing at ground surface to a depth of at least two and one half (2.5) feet. If a pitless adapter is installed on the well, the bottom of the protective cover shall be placed above the pitless adapter/well connection. If the pitless adapter is placed in the protective casing, the protective casing

shall extend below the pitless entrance in the well casing and be sealed both on the outside of the protective casing and between the protective casing and well casing. The protective cover shall be sealed in the borehole in accordance with the requirements of Subsection 9.4. The annular space between the protective cover and non-metallic casing shall also be sealed with acceptable materials in accordance with Subsection 9.4. A sanitary, weather-tight seal or a completely welded cap shall be placed on top of the protective cover, thus enclosing the well itself. If the sanitary seal is vented, screens shall be placed in the vent to prevent debris insects, and other animals from entering the well. This protective casing requirement does not apply to monitor wells. Figure 5 depicts this requirement.

9.3 Casing Joints.

9.3.1 General. All well casing joints shall be made water tight. In instances in which a reduction in casing diameter is made, there shall be enough overlap of the casings to prevent misalignment and to insure the making of an adequate seal in the annular space between casings to prevent the movement of unstable sediment or formation material into the well, in addition to preventing the degradation of the water supply by the migration of inferior quality water through the annular space between the two casings.

9.3.2 Steel Casing. All steel casing shall be screw-coupled or welded. If the joints are welded, the weld shall be at least as thick as the wall thickness of the casing and shall consist of at least two beads for the full circumference of the joint. Spot welding of joints is prohibited.

9.3.3 Plastic Casing. All plastic well casing shall be mechanically screw coupled, chemically welded, cam-locked or lug coupled to provide water tight joints as per ANSI/ASTM F480 (most recent version). Metal screws driven into casing joints shall not be long enough to penetrate the inside surface of the casing. Metal screws should be used only when surrounding air temperatures are below 50 degrees Fahrenheit (F) which retards the normal setting of the cement.

9.4 Surface Seals and Interval Seals.

9.4.1 General. Before the drill rig is removed from the drill site of a well, a surface seal shall be installed. Well casings shall be sealed to prevent the possible downward movement of contaminated surface waters in the annular space around the well casing. The seal shall also prevent the upward movement of artesian waters within the annular space around the well casing. The sealing is also to prevent the movement of groundwater either upward or downward from zones that have been cased out of the well due to poor water quality or other reasons. The following surface seal requirements apply equally to rotary drilled, cable tool drilled, bored, jetted, augered, and driven wells unless otherwise specified.

9.4.2 Seal Material.

9.4.2.1 General. The seal material shall consist of neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout as defined in Section R655-4-2. Use of sealing materials other than those listed above must be approved by the state engineer. Bentonite drilling fluid (mud), dry drilling bentonite, or drill cuttings are not an acceptable bentonite grout or sealing material. In no case shall drilling fluid (mud), drill cuttings, drill chips, or puddling clay be used, or allowed to fill, partially fill, or fall into the required sealing interval of a well during construction of the well. All hydrated sealing materials shall be placed by tremie pipe, pumping, or pressure from the bottom of the seal interval upwards in one continuous operation when placed below a depth of 30 feet or when placed below static groundwater level. Portland Cement grouts must be allowed to cure a minimum of 72 hours for Type I-II cement or 36 hours for Type III cement before well drilling, construction, or testing may be resumed. The volume of annular space in the seal interval shall be calculated by the driller to determine the estimated volume of seal material required to seal the annular

space. The driller shall place at least the volume of material equal to the volume of annular space, thus ensuring that a continuous seal is placed. The driller shall maintain the well casing centered in the borehole during seal placement using centralizers or other means to ensure that the seal is placed radially and vertically continuous.

9.4.2.2 Bentonite Grout. Bentonite used to prepare grout for sealing shall have the ability to gel; not separate into water and solid materials after it gels; have a hydraulic conductivity or permeability value of 10^{-7} centimeters per second or less; contain at least 20 percent solids by weight of bentonite, and have a fluid weight of 9.5 pounds per gallon or greater and be specifically designed for the purpose of sealing. Bentonite or polymer drilling fluid (mud) does not meet the definition of a grout with respect to density, gel strength, and solids content and shall not be used for sealing purposes. At no time shall bentonite grout contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite grout shall be prepared and installed according to the manufacturer's instructions. All additives must be certified by a recognized certification authority such as NSF.

9.4.2.3 Unhydrated Bentonite. Unhydrated bentonite (e.g., granular, tabular, pelletized, or chip bentonite) may be used in the construction of well seals above a depth of 50 feet. Unhydrated bentonite can be placed below a depth of 50 feet when placed inside the annulus of two casings or when placed using a tremie pipe. The bentonite material shall be specifically designed for well sealing and be within industry tolerances. All unhydrated bentonite used for sealing must be free of organic polymers and other contamination. Placement of bentonite shall conform to the manufacturer's specifications and instructions and result in a seal free of voids or bridges. Granular or powered bentonite shall not be placed under water by gravity feeding from the surface. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

9.4.3 Seal and Unperforated Casing Placement.

9.4.3.1 General Seal Requirements. Figure 1 illustrates the construction of a surface seal for a typical well. The surface seal must be placed in an annular space that has a minimum diameter of four (4) inches larger than the nominal size of the permanent well casing (This amounts to a 2-inch annulus). The surface seal must extend from land surface to a minimum depth of 30 feet. The completed surface seal must fully surround the permanent well casing, must be evenly distributed, free of voids, and extend to undisturbed or recompacted soil. In unconsolidated formations such as gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the borehole open are not employed, either a temporary surface casing with a minimum depth of 30 feet and a minimum nominal diameter of four (4) inches greater than the outermost permanent casing shall be utilized to ensure proper seal placement or the well driller shall notify the state engineer's office that the seal will be placed in a potentially unstable open borehole without a temporary surface casing by telephone or FAX in conjunction with the start card submittal in order to provide an opportunity for the state engineer's office to inspect the placement of the seal. If a temporary surface casing is utilized, the surface casing shall be removed in conjunction with the placement of the seal. Alternatively, the surface casing may be sealed permanently in place to a depth of 30 feet with a minimum 2-inch annular seal between the surface casing and borehole wall. If the surface casing is to be removed, the surface casing shall be withdrawn as sealing material is placed between the permanent well casing and borehole wall. The sealing material shall be kept at a sufficient height above the bottom of the temporary surface casing as it is withdrawn to prevent caving of the borehole wall. If the temporary conductor

casing is driven in place without a 2-inch annular seal between the surface casing and borehole wall, the surface casing may be left in place in the borehole only if it is impossible to remove because of unforeseen conditions and not because of inadequate drilling equipment, or if the removal will seriously jeopardize the integrity of the well and the integrity of subsurface barriers to pollutants or contaminant movement. The temporary surface casing can only be left in place without a sufficient 2-inch annular seal as describe above with the approval of the state engineer on a case by case basis. If the surface casing is left in place, it shall be perforated to allow seal material to penetrate through the casing and into the formation and annular space between the surface casing and borehole wall. Unhydrated bentonite shall not be used to construct the surface seal when the surface casing is left in place. Grout seal materials must be used to construct the surface seal when the surface casing is left in place. The grout must be placed with sufficient pressure to force the grout through the surface casing perforations and into the annular space between the surface casing and borehole wall and into the formation. Surface seals and unperforated casing shall be installed in wells located in unconsolidated formation such as sand and gravel with minor clay or confining units; unconsolidated formation consisting of stratified layers of materials such as sand, gravel, and clay or other confining units; and consolidated formations according to the following procedures.

9.4.3.2 Unconsolidated Formation without Significant Confining Units. This includes wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet. Permanent unperforated casing shall extend at least to a depth of 30 feet and also extend below the lowest anticipated pumping level. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.3 Unconsolidated Formation with Significant Confining Units. This includes wells that penetrate an aquifer overlain by clay or other confining formations that are at least six (6) feet thick. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into the confining unit above the water bearing formation. Unperforated casing shall extend from ground surface to at least 30 feet and to the bottom of the confining unit overlying the water bearing formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.4 Consolidated Formation. This includes drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into competent consolidated formation. Unperforated permanent casing shall be installed to extend to a depth of at least 30 feet and the lower part of the casing shall be driven and sealed at least five (5) feet into the consolidated formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside

a larger diameter approved casing.

9.4.3.5 Sealing Artesian Wells. Unperforated well casing shall extend into the confining stratum overlying the artesian zone, and shall be adequately sealed into the confining stratum to prevent both surface and subsurface leakage from the artesian zone. If leaks occur around the well casing or adjacent to the well, the well shall be completed with the seals, packers, or casing necessary to eliminate the leakage. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal of the drilling rig is granted by the state engineer, or when loss of life or property is imminent. If the well flows naturally at land surface due to artesian pressure, the well shall be equipped with a control valve so that the flow can be completely stopped. The control valve must be available for inspection by the state engineer at all times.

9.4.4 Interval Seals. Formations containing undesirable materials (e.g., fine sand and silt that can damage pumping equipment and result in turbid water), contaminated groundwater, or poor quality groundwater must be sealed off so that the unfavorable formation cannot contribute to the performance and quality of the well. These zones must also be sealed to eliminate the potential of cross contamination or commingling between two aquifers of differing quality. Figure 4 illustrates this situation.

9.4.5 Other Sealing Methods. In wells where the above-described methods of well sealing do not apply, special sealing procedures can be approved by the state engineer upon written request by the licensed well driller.

9.5 Special Requirements for Oversized and Gravel Packed Wells. This section applies to wells in which casing is installed in an open borehole without driving or drilling in the casing and an annular space is left between the borehole wall and well casing (e.g., mud rotary wells, flooded reverse circulation wells, air rotary wells in open bedrock).

9.5.1 Oversized Borehole. The diameter of the borehole shall be at least four (4) inches larger than the outside diameter of the well casing to be installed to allow for proper placement of the gravel pack and/or formation stabilizer and adequate clearance for grouting and surface seal installations. In order to accept a smaller diameter casing in any oversized borehole penetrating unconsolidated or stratified formations, the annular space must be sealed in accordance with Subsection 9.4. In order to minimize the risk of: 1) borehole caving or collapse; 2) casing failure or collapse; or 3) axial distortion of the casing, it is recommended that the entire annular space in an oversized borehole between the casing and borehole wall be filled with formation stabilizer such as approved seal material, gravel pack, filter material or other state engineer-approved materials. Well casing placed in an oversized borehole should be suspended at the ground surface until all formation stabilizer material is placed in order to reduce axial distortion of the casing if it is allowed to rest on the bottom of an open oversized borehole. In order to accept a smaller diameter casing, the annular space in an oversized borehole penetrating unconsolidated formations (with no confining layer) must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or from static water level to ground surface, whichever is deeper. The annular space in an oversized borehole penetrating stratified or consolidated formations must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or five (5) feet into an impervious strata (e.g., clay) or competent consolidated formation overlying the water producing zones back to ground surface, whichever is deeper. Especially in the case of an oversized borehole, the requirements of Subsection 9.4.4 regarding interval sealing must be followed.

9.5.2 Gravel Pack or Filter Material. The gravel pack or filter material shall consist of clean, well-rounded, chemically stable grains that are smooth and uniform. The filter material

should not contain more than 2% by weight of thin, flat, or elongated pieces and should not contain organic impurities or contaminants of any kind. In order to assure that no contamination is introduced into the well via the gravel pack, the gravel pack must be washed with a minimum 100 ppm solution of chlorinated water or dry hypochlorite mixed with the gravel pack at the surface before it is introduced into the well (see Table 3 of these rules for required amount of chlorine material).

9.5.3 Placement of Filter Material. All filter material shall be placed using a method that through common usage has been shown to minimize a) bridging of the material between the borehole and the casing, and b) excessive segregation of the material after it has been introduced into the annulus and before it settles into place. It is not acceptable to place filter material by pouring from the ground surface unless proper sounding devices are utilized to measure dynamic filter depth, evaluate pour rate, and minimize bridging and formation of voids.

9.5.4 No Surface Casing Used. If no permanent surface casing is installed, neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite seal shall be installed in accordance with Subsection 9.4. Figure 2 of these rules illustrates the construction of a typical well of this type.

9.5.5 Surface Casing Used. If permanent surface casing is installed, it shall be unperforated and installed and sealed in accordance with Subsection 9.4 as depicted in Figure 3 of these rules. After the gravel pack has been installed between the surface casing and the well casing, the annular space between the two casings shall be sealed by either welding a water-tight steel cap between the two casings at land surface or filling the annular space between the two casings with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite from at least 50 feet to the surface and in accordance with Subsection 9.4. If a hole will be created in the surface casing in order to install a pitless adapter into the well casing, the annular space between the surface casing and well casing shall be sealed with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite and a waterproof cap sealing the two casings at the surface by itself is unacceptable. Moreover in this case, the annular space between the surface casing and well casing must be at least 2 inches in order to facilitate seal placement.

9.5.6 Gravel Feed Pipe. If a gravel feed pipe, used to add gravel to the gravel pack after well completion, is installed, the diameter of the borehole in the sealing interval must be at least four (4) inches in diameter greater than the permanent casing plus the diameter of the gravel feed pipe. The gravel feed pipe must be completely surrounded by the seal. The gravel feed pipe must extend at least 18 inches above ground and must be sealed at the top with a watertight cap or plug (see Figure 2).

9.6 Protection of the Aquifer.

9.6.1 Drilling Fluids and LCMs. The well driller shall take due care to protect the producing aquifer from clogging or contamination. Organic substances shall not be introduced into the well or borehole during drilling or construction. Every effort shall be made to remove all substances and materials introduced into the aquifer or aquifers during well construction. "Substances and materials" shall mean all drilling fluids, filter cake, and any other inorganic substances added to the drilling fluid that may seal or clog the aquifer. The introduction of lost circulation materials (LCM's) during the drilling process shall be limited to those products which will not present a potential medium for bacterial growth or contamination. Only LCM's which are non-organic, such as "rock wool" consisting of spun calcium carbonate, which can be safely broken down and removed from the borehole, may be utilized. This is especially important in the construction of wells designed to be used as a public water system supply.

9.6.2 Containment of Drilling Fluid. Drilling or

circulating fluid introduced into the drilling process shall be contained in a manner to prevent surface or subsurface contamination and to prevent degradation of natural or man-made water courses or impoundments. Rules regarding the discharges to waters of the state are promulgated under R317-8-2 of the Utah Administrative Code and regulated by the Utah Division of Water Quality (Tel. 801-536-6146). Pollution of waters of the state is a violation of the Utah Water Quality Act, Utah Code Annotated Title 19, Chapter 5.

9.6.3 Mineralized, Contaminated or Polluted Water. Whenever a water bearing stratum that contains nonpotable mineralized, contaminated or polluted water is encountered, the stratum shall be adequately sealed off so that contamination or co-mingling of the overlying or underlying groundwater zones will not occur (see Figure 4).

9.6.4 Drilling Equipment. All tools, drilling equipment, and materials used to drill a well shall be free of contaminants prior to beginning well construction. Contaminants include lubricants, fuel, bacteria, etc. that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well. It is recommended that excess lubricants placed on drilling equipment be wiped clean prior to insertion into the borehole.

9.6.5 Well Disinfection and Chlorination of Water. No contaminated or untreated water shall be placed in a well during construction. Water should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to give 100 parts per million free chlorine residual. Upon completion of a well or work on a well, the driller shall disinfect the well using accepted disinfection procedures to give 100 parts per million free chlorine residual in the well water. Table 3 provides the amount of common laundry bleach or dry powder hypochlorite required per 100 gallons of water or 100 feet linear casing volume of water to mix a 100 parts per million solution. Additional recommendations and guidelines for water well system disinfection are available from the state engineer upon request.

TABLE 3
AMOUNT OF HYPOCHLORITE FOR EACH 100 FEET OF WATER
STANDING IN WELL (100 ppm solution)

Well Diameter (inches)	5.25% Solution (cups)	25% Powder (ounces)	70% Powder (ounces)
2	0.50	1.00	0.50
4	2.25	3.50	1.50
6	5.00	8.00	3.00
8	8.50	14.50	5.50
10	13.00	22.50	8.50
12	19.00	32.50	12.00
14	26.00	44.50	16.50
16	34.00	58.00	26.00
20	53.00	90.50	33.00
For every 100 gal. of water add:	3.50	5.50	2.00

NOTES: *Common Laundry Bleach
**High Test Hypochlorite

9.7 Special Requirements.

9.7.1 Explosives. Explosives used in well construction shall not be detonated within the section of casing designed or expected to serve as the surface seal of the completed well, whether or not the surface seal has been placed. If explosives are used in the construction of a well, their use shall be reported on the official well log. In no case shall explosives, other than explosive shot perforators specifically designed to perforate steel casing, be detonated inside the well casing or liner pipe.

9.7.2 Access Port. Every well shall be equipped with a usable access port so that the position of the water level, or pressure head, in the well can be measured at all times.

9.7.3 Completion or Abandonment. A licensed driller

shall not remove his drill rig from a well site unless the well is completed or abandoned. Completion of a well shall include all surface seals, gravel packs or curbs required. Dry boreholes, or otherwise unsuccessful attempts at completing a well, shall be properly abandoned in accordance with Section R655-4-12. Upon completion, all wells shall be equipped with a watertight, tamper-resistant casing cap or sanitary seal.

9.7.4 Surface Security. If it becomes necessary for the driller to temporarily discontinue the drilling operation before completion of the well or otherwise leave the well or borehole unattended, the well and/or borehole must be covered securely to prevent contaminants from entering the casing or borehole and rendered secure against entry by children, vandals, domestic animals, and wildlife.

9.7.5 Pitless Adapters. Pitless adapters or units are acceptable to use with steel well casing as long as they are installed in accordance with manufacturers recommendations and specifications. The pitless adaptor, including the cap or cover, casing extension, and other attachments, must be so designed and constructed to be water tight and to prevent contamination of the potable water supply from external sources. Pitless adapters or units are not recommended to be mounted on PVC well casing. If a pitless adapter is to be used with PVC casing, it should be designed for use with PVC casing, and the driller should ensure that the weight of the pump and column do not exceed the strength of the PVC well casing.

9.7.6 Hydraulic Fracturing. The hydraulic fracturing pressure shall be transmitted through a drill string and shall not be transmitted to the well casing. Hydraulic fracturing intervals shall be at least 20 feet below the bottom of the permanent casing of a well. All hydraulic fracturing equipment shall be thoroughly disinfected with a 100 part per million chlorine solution prior to insertion into the well. The driller shall include the appropriate hydraulic fracturing information on the well log including methods, materials, maximum pressures, location of packers, and initial/final yields.

9.7.7 Static Water Level, Well Development, and Well Yield. To fulfill the requirements of Subsection R655-4-4.5.2, new wells designed to produce water shall be developed to remove drill cuttings, drilling mud, or other materials introduced into the well during construction and to restore the natural groundwater flow to the well to the extent possible. After a water production well is developed, a test should be performed to determine the rate at which groundwater can be reliably produced from the well. Following development and testing, the static water level in the well should also be measured. Static water level, well development information, and well yield information shall be noted on the official submittal of the Well Log by the well driller.

R655-4-10. Special Wells.

10.1 Construction Standards for Special Wells.

10.1.1 General. The construction standards outlined in Section R655-4-9 are meant to serve as minimum acceptable construction standards. Certain types of wells such as cathodic protection wells, heating or cooling exchange wells, recharge and recovery wells, and public supply wells require special construction standards that are addressed in this section or in rules promulgated by other regulating agencies. At a minimum, when constructing special wells as listed above, the well shall be constructed by a licensed well driller, and the minimum construction standards of Section R655-4-9 shall be followed in addition to the following special standards.

10.1.2 Public Water Supply Wells. Public water supply wells are subject to the minimum construction standards outlined in Section R655-4-9 in addition to the requirements established by the Department of Environmental Quality, Division of Drinking Water under Rules R309-204 and R309-113. Plans and specifications for a public supply well must be

reviewed and approved by the Division of Drinking Water before the well is drilled. These plans and specifications shall include the procedures, practices, and materials used to drill, construct, seal, develop, clean, disinfect, and test the public supply well. A Preliminary Evaluation Report describing the potential vulnerability and protection strategies of the new well to contamination must also be submitted and approved prior to drilling. A representative of the Division of Drinking Water must be present at the time the surface grout seal is placed in all public supply wells, so that the placement of the seal can be certified. In order to assure that a representative will be available, and to avoid down-time waiting for a representative, notice should be given several days in advance of the projected surface grout seal placement. When the time and date for the surface grout seal installation are confirmed a definite appointment should be made with the representative of the Division of Drinking Water to witness the grout seal placement by calling (801) 536-4200. The licensed driller shall have available a copy of the start card relating to the well and provide that information to the inspecting representative at the time of the surface grout seal installation and inspection.

10.1.3 Cathodic Protection Well Construction. Cathodic protection wells shall be constructed in accordance with the casing, joint, surface seal, and other applicable requirements outlined in Section R655-4-9. Any annular space existing between the base of the annular surface seal and the top of the anode and conductive fill interval shall be filled with appropriate fill or sealing material. Fill material shall consist of washed granular material such as sand, pea gravel, or sealing material. Fill material shall not be subject to decomposition or consolidation and shall be free of pollutants and contaminants. Fill material shall not be toxic or contain drill cuttings or drilling mud. Additional sealing material shall be placed below the minimum depth of the annular surface seal, as needed, to prevent the cross-connection and commingling of separate aquifers and water bearing zones. Vent pipes, anode access tubing, and any other tubular materials (i.e., the outermost casing) that pass through the interval to be filled and sealed are considered casing for the purposes of these standards and shall meet the requirements of Subsections R655-4-9.2 and 9.3. Cathodic protection well casing shall be at least 2 inches in internal diameter to facilitate eventual well abandonment. Figure 6 illustrates the construction of a typical cathodic protection well.

10.1.4 Heating or Cooling Exchange Wells. Wells or boreholes utilized for heat exchange or thermal heating, which are 30 feet or greater in depth and encounter formations containing groundwater, must be drilled by a licensed driller and the owner or applicant must have an approved application for that specific purpose as outlined in Section R655-4-7. Wells or boreholes installed for heat or thermal exchange process must comply with the minimum construction standards of Section R655-4-9. If a separate well or borehole is required for re-injection purposes, it must also comply with these standards and the groundwater must be injected into the same water bearing zones as from which it is initially withdrawn, and a non-consumptive use water right is required. The quality and quantity of groundwater shall not be diminished or degraded upon re-injection. The rules herein pertain only to the heating and cooling exchange well constructed to a depth greater than 30 feet and are not intended to regulate the incidental work that may occur up to the well such as plumbing, electrical, piping, trenching, and backfilling activities.

10.1.5 Recharge and Recovery Wells. Any well drilled under the provisions of Title 73, Chapter 3b (Groundwater Recharge and Recovery Act) shall be constructed in a manner consistent with these rules and shall be drilled by a currently licensed driller. Special rules regarding the injection of water into the ground are also promulgated under the jurisdiction of

the Utah Department of Environmental Quality, Division of Water Quality (Rule R317-7 "Underground Injection Control Program" of the Utah Administrative Code) and must be followed in conjunction with the Water Well Drilling rules.

R655-4-11. Deepening, Rehabilitation, and Renovation of Wells.

11.1 Sealing of Casing.

11.1.1 If in the repair of a drilled well, the old casing is withdrawn, the well shall be recased and resealed in accordance with the rules provided in Subsection R655-4-9(9.4).

11.2 Inner Casing.

11.2.1 If an inner casing is installed to prevent leakage of undesirable water into a well, the space between the two well casings shall be completely sealed using packers, casing swedging, pressure grouting, etc., to prevent the movement of water between the casings.

11.3 Outer Casing.

11.3.1 If the "over-drive" method is used to eliminate leakage around an existing well, the casing driven over the well shall meet the minimum specifications listed in Subsection R655-4-9(9.4).

11.4 Artesian Wells.

11.4.1 If upon deepening an existing well, an artesian zone is encountered, the well shall be cased and completed as provided in Subsection R655-4-9(9.4).

11.5 Drilling in a Dug Well.

11.5.1 A drilled well may be constructed through an existing dug well provided that:

11.5.1.1 Unperforated Casing Requirements. An unperforated section of well casing extends from a depth of at least ten (10) feet below the bottom of the dug well and at least 20 feet below land surface to above the maximum static water level in the dug well.

11.5.1.2 Seal Required. A two foot thick seal of neat cement grout, sand cement grout, or bentonite grout is placed in the bottom of the dug well so as to prevent the direct movement of water from the dug well into the drilled well.

11.5.1.3 Test of Seal. The drilled well shall be pumped or bailed to determine whether the seal described in Subsection R655-4-11(11.5.1.2) is adequate to prevent movement of water from the dug well into the drilled well. If the seal leaks, additional sealing and testing shall be performed until a water tight seal is obtained.

11.6 Well Rehabilitation and Cleaning.

11.6.1 Tools used to rehabilitate or clean a well shall be cleaned, disinfected, and free of contamination prior to placement in a well.

11.6.2 The driller shall use rehabilitation and cleaning tools properly so as not to permanently damage the well or aquifer. If the surface seal is damaged or destroyed in the process of rehabilitation or cleaning, the driller shall repair the surface seal to the standards set forth in Subsection R655-4-9(9.4).

11.6.3 Debris, sediment, and other materials displaced inside the well and surrounding aquifer as a result of rehabilitation or cleaning shall be completely removed by pumping, bailing, well development, or other approved methods.

11.6.4 Detergents, chlorine, acids, or other chemicals placed in wells for the purpose of increasing or restoring yield, shall be specifically designed for that purpose and used according to the manufacturer's recommendations.

11.6.5 Any renovation, rehabilitation, cleaning, or other work on a well that requires alteration of the well itself shall be conducted by a licensed well driller.

11.6.6 Following completion of deepening, renovation, rehabilitation, cleaning, or other work on a well, the well shall be properly disinfected in accordance with Subsection R655-4-

9(9.6.5).

R655-4-12. Abandonment of Wells.

12.1 Temporary Abandonment.

12.1.1 When any well is temporarily removed from service, the top of the well shall be sealed with a tamper resistant, water-tight cap or seal. If a well is in the process of being drilled and is temporarily abandoned, the well shall be sealed with a tamper resistant, water-tight cap or seal and a surface seal installed in accordance with Subsection R655-4-9(9.4). The well may be temporarily abandoned during construction for a maximum of 90 days. After the 90 day period, the temporarily abandoned well shall be permanently abandoned in accordance with the following requirements, and an official well abandonment report (abandonment log) must be submitted in compliance with Section R655-4-4.

12.2 Permanent Abandonment.

12.2.1 The rules of this section apply to the abandonment of the type of wells listed in Subsection R655-4-1(1.2) including private water wells, public supply wells, monitor wells, cathodic protection wells, and heating or cooling exchange wells. A licensed driller shall notify the state engineer prior to commencing abandonment work and submit a complete and accurate abandonment log following abandonment work in accordance with Section R655-4-4 of these rules. Prior to commencing abandonment work, the driller shall obtain a copy of the well log of the well proposed to be abandoned from the well owner or the state engineer, if available, in order to determine the proper abandonment procedure. Any well that is to be permanently abandoned shall be completely filled in a manner to prevent vertical movement of water within the borehole as well as preventing the annular space surrounding the well casing from becoming a conduit for possible contamination of the groundwater supply. A well driller who wishes to abandon a well in a manner that does not comply with the provisions set forth in this section must request approval from the state engineer.

12.3 License Required.

12.3.1 Well abandonment shall be accomplished under the direct supervision of a currently licensed water well driller who shall be responsible for verification of the procedures and materials used.

12.4 Acceptable Materials.

12.4.1 Neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout shall be used to abandon wells and boreholes. Other sealing materials or additives, such as fly ash, may be used in the preparation of grout upon approval of the state engineer. Drilling mud or drill cuttings shall not be used as any part of a sealing materials for well abandonment. The liquid phase of the abandonment fluid shall be water from a potable municipal system or disinfected in accordance with Subsection R655-4-9(9.6.5).

12.5 Placement of Materials.

12.5.1 Neat cement and sand cement grout shall be introduced at the bottom of the well or required sealing interval and placed progressively upward to the top of the well. The sealing material shall be placed by the use of a grout pipe, tremie line, dump bailer or equivalent in order to avoid freefall, bridging, or dilution of the sealing materials or separation of aggregates from sealants. Sealing material shall not be installed by freefall (gravity) unless the interval to be sealed is dry and no deeper than 30 feet below ground surface. If the well to be abandoned is a flowing artesian well, the well may be pressure grouted from the surface. The well should be capped immediately after placement of seal materials to allow the seal material to set up and not flow out of the well.

12.5.2 Bentonite-based abandonment products shall be mixed and placed according to manufacturer's recommended procedures and result in a seal free of voids or bridges.

Granular or powered bentonite shall not be placed under water. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

12.5.3 The uppermost ten (10) feet of the abandoned well casing or borehole shall consist of neat cement grout or sand cement grout.

12.5.4 Abandonment materials placed opposite any non-water bearing intervals or zones shall be at least as impervious as the formation or strata prior to penetration during the drilling process.

12.5.5 Prior to well or borehole abandonment, all pump equipment, piping, and other debris shall be removed to the extent possible. The well shall also be sounded immediately before it is plugged to make sure that no obstructions exist that will interfere with the filling and sealing. If the well contains lubricating oil that has leaked from a turbine shaft pump, it shall be removed from the well prior to abandonment and disposed of in accordance with applicable state and federal regulations.

12.5.6 Verification shall be made that the volume of sealing and fill material placed in a well during abandonment operations equals or exceeds the volume of the well or borehole to be filled and sealed.

12.6 Termination of Casing.

12.6.1 The casings of wells to be abandoned shall be severed a minimum of two feet below either the natural ground surface adjacent to the well or at the collar of the hole, whichever is the lower elevation. A minimum of two (2) feet of compacted native material shall be placed above the abandoned well upon completion.

12.7 Abandonment of Artesian Wells.

12.7.1 A neat cement grout, sand-cement grout, or concrete plug shall be placed in the confining stratum overlying the artesian zone so as to prevent subsurface leakage from the artesian zone. The remainder of the well shall be filled with sand-cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten (10) feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.8 Abandonment of Drilled and Jetted Wells.

12.8.1 A neat cement grout or sand cement grout plug shall be placed opposite all perforations, screens or openings in the well casing. The remainder of the well shall be filled with cement grout, neat cement, bentonite abandonment products, concrete, or bentonite slurry. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.9 Abandonment of Gravel Packed Wells.

12.9.1 All gravel packed wells shall be pressure grouted throughout the perforated or screened section of the well. The remainder of the well shall be filled with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.10 Removal of Casing.

12.10.1 It is recommended that the well casing be removed during well abandonment, and when doing so, the abandonment materials shall be placed from the bottom of the well or borehole progressively upward as the casing is removed. The well shall be sealed with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. In the case of gravel packed wells, the entire gravel section shall be pressure grouted. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.11 Replacement Wells.

12.11.1 Wells which are to be removed from operation and replaced by the drilling of a new well under an approved replacement application, shall be abandoned in a manner

consistent with the provisions of Section R655-4-12 before the rig is removed from the site of the newly constructed replacement well, unless written authorization to remove the rig without abandonment is provided by the state engineer. Also refer to the requirements provided in Subsection R655-4-4(4.4).

12.12 Abandonment of Cathodic Protection Wells.

12.12.1 The general requirements for permanent well abandonment in accordance with Section R655-4-12 shall be followed for the abandonment of cathodic protection wells.

12.12.2 A cathodic protection well shall be investigated before it is destroyed to determine its condition, details of its construction and whether conditions exist that will interfere with filling and sealing.

12.12.3 Casing, cables, anodes, granular backfill, conductive backfill, and sealing material shall be removed as needed, by re-drilling, if necessary, to the point needed to allow proper placement of abandonment material. Casing that cannot be removed shall be adequately perforated or punctured at specific intervals to allow pressure injection of sealing materials into granular backfill and all other voids that require sealing.

R655-4-13. Monitor Well Construction Standards.

13.1 Scope.

13.1.1 Certain construction standards that apply to water wells also apply to monitor wells. Therefore, these monitoring well standards refer frequently to the water well standard sections of the rules. Standards that apply only to monitor wells, or that require emphasis, are discussed in this section. Figure 7 illustrates a schematic of an acceptable monitor well with an above-ground surface completion. Figure 8 illustrates a schematic of an acceptable monitor well with a flush-mount surface completion. Figures 7 and 8 can be viewed in the publication, State of Utah Administrative Rules for Water Well Drillers, dated January 1, 2001, available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah.

13.1.2 These standards are not intended as a complete manual for monitoring well construction, alteration, maintenance, and abandonment. These standards serve only as minimum statewide guidelines towards ensuring that monitor wells do not constitute a significant pathway for the movement of poor quality water, pollutants, or contaminants. These standards provide no assurance that a monitor well will perform a desired function. Ultimate responsibility for the design and performance of a monitoring well rests with the well owner and/or the owner's contractor, and/or technical representative(s). Most monitor well projects are the result of compliance with the Environmental Protection Agency (EPA), Federal Regulations such as the Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), or specific State Solid and Hazardous Waste requirements. The contracts governing their installation are tightly written containing specific requirements as to site location, materials used, sampling procedures and overall objectives. Therefore specific construction requirements for monitor well installation shall be governed by applicable contracts and regulations providing they meet or exceed state requirements and specifications. Guidelines and recommended practices dealing with the installation of monitor wells may be obtained from the state engineer upon request. Additional recommended information may be obtained from the Environmental Protection Agency (EPA), Resource Conservation and Recovery Act (RCRA), Groundwater Monitoring Enforcement and Compliance Document available from EPA's regional office in Denver, Colorado and from the Handbook of Suggested Practices for the Design and Installation of Groundwater Monitoring Wells, available from the National Groundwater Association in Dublin, Ohio.

13.2 Installation and Construction.

13.2.1 Materials and Equipment Contaminant-Free. All material used in the installation of monitor wells shall be contaminant-free when placed in the ground. Drilling equipment shall be clean and contaminant free in accordance with Subsection R655-4-9(9.6.4). During construction contaminated water should not be allowed to enter contaminant-free geologic formations or water bearing zones.

13.2.2 Borehole Integrity. Some minor cross-contamination may occur during the drilling process, but the integrity of the borehole and individual formations must then be safeguarded from permanent cross connection.

13.2.3 Casing and Screen. The well casing should be perforated or screened and filter packed with sand or gravel where necessary to provide adequate sample collection at depths where appropriate aquifer flow zones exist. The casing and screen selected shall not affect or interfere with the chemical, physical, radiological, or biological constituents of interest. Screens in the same well shall not be placed across separate water bearing zones in order to minimize interconnection, aquifer commingling, and cross contamination. Screens in a nested well can be placed in separate water bearing zones as long as the intervals between the water bearing zones are appropriately sealed and aquifer cross connection and commingling does not occur. Monitor well casing and screen shall conform to ASTM standards, or consist of at least 304 or 316 stainless steel, PTFE (Teflon), or Schedule 40 PVC casing.

13.2.4 Gravel/Filter Pack. If installed, the gravel or filter pack should generally extend two (2) feet to ten (10) feet above screened or perforated areas to prevent the migration of the sealing material from entering the zones being sampled. Gravel or filter pack material shall meet the requirements of Subsection R655-4-9(9.5.2). Gravel/filter pack for monitoring wells does not require disinfection. Drill cutting should not be placed into the open borehole annulus. The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the gravel pack by means of a sounding device or other mechanism.

13.2.5 Annular Seal. All monitor wells constructed shall have a continuous surface seal, which seals the annular space between the borehole and the permanent casing, in accordance with the provisions in Section R655-4-9. The surface seal depth requirements of Section R655-4-9 do not apply to monitor wells. The surface seal may be more or less than 50 feet depending on the screen/perforation and/or gravel pack interval. Seals shall also be constructed to prevent interconnection and commingling of separate aquifers penetrated by the well, prevent migration of surface water and contaminations into the well and aquifers, and shall provide casing stability. The seal shall have a minimum diameter of four inches larger than the nominal size of the permanent casing, and shall extend from land surface to the top of the filter pack. After the permanent casing and filter pack (optional) has been set in final position, a layer of bentonite or fine sand (e.g., mortar sand) shall be placed on top of the filter pack to maintain separation between the seal material and the screened interval in order to insure that the seal placement will not interfere with the filter pack. The remaining annular space shall be filled to land surface in a continuous operation with unhydrated bentonite, neat cement grout, sand-cement grout, or bentonite grout. Only potable water should be used to hydrate any grout or slurry mixture. The completed annular space shall fully surround the permanent casing, be evenly distributed, free of voids, and extend from the permanent casing to undisturbed or recompact soil. All sealing materials and placement methods shall conform to the standards in Section R655-4-2 and Subsection R655-4-9(9.4). The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the seal.

13.2.6 Cuttings, Decon Water, Development Water, and Other IDW. Drill cuttings, decontamination (Decon) water,

monitor well development water, and other investigation derived waste (IDW) shall be managed and disposed of in accordance with applicable state and federal environmental regulations. It is the responsibility of the driller to know and understand such requirements.

13.3 Minimum Surface Protection Requirements.

13.3.1 If a well is cased with metal and completed above ground surface, a locking water resistant cap shall be installed on the top of the well.

13.3.2 If the well is not cased with metal and completed above ground surface, a protective metal casing shall be installed over and around the well. The protective casing shall be cemented at least two feet into the ground around the nonmetallic casing. A water tight cap shall be installed in the top of the well casing. A locking cap shall be installed on the top of the protective casing.

13.3.3 Monitor wells completed above ground and potentially accessible to vehicular damage shall be protected in the following manner. At least three metal posts, at least three inches in diameter, shall be cemented in place around the casing. Each post shall extend at least three feet above and two feet below ground surface. A concrete pad may be installed to add protection to the surface completion. If installed, the concrete pad shall be at least four (4) inches thick and shall slope to drain away from the well casing. The base shall extend at least two (2) feet laterally in all directions from the outside of the well boring. When a concrete pad is used, the well seal may be part of the concrete pad.

13.3.4 If the well is completed below land surface, a water tight cap with a lock shall be attached to the top of the well casing. A metal monument or equivalent shall be installed over and around the well. The monument shall serve as a protective cover and be installed level with the land surface and be equipped with a waterproof seal to prevent inflow of any water or contaminants. Drains will be provided, when feasible, to keep water out of the well and below the well cap. The monument and cover must be designed to withstand the maximum expected load.

13.4 Abandonment.

13.4.1 Abandonment of monitor wells shall be completed in compliance with the provisions of Section R655-4-12. The provisions of Section R655-4-12 are not required for the permanent abandonment of monitor wells completed less than 30 feet below natural ground surface.

**KEY: water rights, licensing, well drilling
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73-3

R657. Natural Resources, Wildlife Resources.**R657-5. Taking Big Game.****R657-5-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(l) "Hunter's choice" means either sex may be taken.

(m) "Limited entry hunt" means any hunt published in the hunt tables of the proclamation of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

(n) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(o) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the proclamation of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(p) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(q) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.

(r)(i) "Resident" for purposes of this rule means a person who:

(A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and

(B) does not claim residency for hunting, fishing, or trapping in any other state or country.

(ii) A Utah resident retains Utah residency if that person leaves this state:

(A) to serve in the armed forces of the United States or for

religious or educational purposes; and

(B) complies with Subsection (m)(i)(B).

(iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:

(I) is not on temporary duty in this state; and

(II) complies with Subsection (m)(i)(B).

(iv) A copy of the assignment orders must be presented to a wildlife division office to verify the member's qualification as a resident.

(v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and

(B) complies with Subsection (m)(i)(B).

(vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

(s) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

(t)(i) "Valid application" means:

(A) it is for a species that the applicant is eligible to possess a permit;

(B) there is a hunt for that species regardless of estimated permit numbers; and

(C) there is sufficient information on the application to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (a) may still be considered valid if the application is timely corrected through the application correction process.

R657-5-3. License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or proclamations of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

R657-5-4. Age Requirements and Restrictions.

(1)(a) A person 14 years of age or older may purchase a permit and tag to hunt big game. A person 13 years of age may purchase a permit and tag to hunt big game if that person's 14th birthday falls within the calendar year for which the permit and tag are issued.

(2)(a) A person at least 14 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

R657-5-5. Duplicate License and Permit.

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or Certificate of Registration provided the person did not receive the original license, permit, tag or certificate of registration.

R657-5-6. Hunting Hours.

Big game may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

R657-5-7. Temporary Game Preserves.

(1)(a) A person who does not have a valid permit to hunt on a temporary game preserve may not carry a firearm or archery equipment on any temporary game preserve while the respective hunts are in progress.

(b) "Carry" means having a firearm on your person while hunting in the field.

(2) As used in this section, "temporary game preserve" means all bull elk, buck pronghorn, moose, bison, bighorn sheep, Rocky Mountain goat, limited entry buck deer areas and cooperative wildlife management units, excluding incorporated areas, cities, towns and municipalities.

(3) Weapon restrictions on temporary game preserves do not apply to:

(a) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game and waterfowl;

(b) livestock owners protecting their livestock;

(c) peace officers in the performance of their duties; or

(d) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-8. Prohibited Weapons.

(1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.

(2) A person may not use:

(a) a firearm capable of being fired fully automatic; or

(b) any light enhancement device or aiming device that casts a beam of light.

R657-5-9. Rifles and Shotguns.

(1) The following rifles and shotguns may be used to take big game:

(a) any rifle firing centerfire cartridges and expanding bullets; and

(b) a shotgun, 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

R657-5-10. Handguns.

(1) A handgun may be used to take deer and pronghorn, provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at the muzzle.

(2) A handgun may be used to take elk, moose, bison, bighorn sheep, and Rocky Mountain goat provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at 100 yards.

R657-5-11. Muzzleloaders.

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

(a) can be loaded only from the muzzle;

(b) has open sights, peep sights, or a fixed non-magnifying 1x scope;

(c) has a single barrel;

(d) has a minimum barrel length of 18 inches;

(e) is capable of being fired only once without reloading;

(f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;

(g) is loaded with black powder or black powder substitute, which must not contain nitrocellulose based smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A 170 grain or heavier bullet, including sabots must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit may not possess or be in control of any firearm other than a muzzleloading rifle or have a firearm other than a muzzleloading rifle in his camp or motor vehicle during a muzzleloader hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-12. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw;

(d) a release aid that is not hand held or that supports the draw weight of the bow; or

(e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during

hunts that coincide with the archery hunt;

- (iii) livestock owners protecting their livestock; or
- (iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-13. Areas With Special Restrictions.

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may not:

(a) hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon;

(b) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or

(c) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house or other building regularly occupied by people.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the proclamation of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

R657-5-14. Spotlighting.

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected

wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-5-15. Use of Vehicle or Aircraft.

(1)(a) A person may not use an airplane or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by an aircraft or any other vehicle or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

(2)(a) A person may not use any type of aircraft from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends to:

(i) transport a hunter or hunting equipment into a hunting area;

(ii) transport a big game carcass; or

(iii) locate, or attempt to observe or locate any protected wildlife.

(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).

(3) The provisions of this section do not apply to the operation of an aircraft in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

R657-5-16. Party Hunting and Use of Dogs.

(1) A person may not take big game for another person, except as provided in Section 23-19-1 and Rule R657-12.

(2) A person may not use the aid of a dog to take, chase, harm or harass big game.

R657-5-17. Big Game Contests.

A person may not enter or hold a big game contest that:

(1) is based on big game or their parts; and

(2) offers cash or prizes totaling more than \$500.

R657-5-18. Tagging.

(1) The carcass of any species of big game must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue big game after any of the notches have been removed from the tag or the tag has been detached from the permit.

(3) The tag must remain with the largest portion of the meat until the animal is entirely consumed.

R657-5-19. Transporting Big Game Within Utah.

(1) A person may transport big game within Utah only as follows:

(a) the head or sex organs must remain attached to the largest portion of the carcass;

(b) the antlers attached to the skull plate must be transported with the carcass of an elk taken in a spike bull unit; and

(c) the person who harvested the big game animal must accompany the carcass and must possess a valid permit corresponding to the tag attached to the carcass, except as

provided in Subsection (2).

(2) A person who did not take the big game animal may transport it only after obtaining a shipping permit or disposal receipt from the division or a donation slip as provided in Section 23-20-9.

R657-5-20. Exporting Big Game From Utah.

(1) A person may export big game or their parts from Utah only if:

(a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or

(b) the person exporting the big game animal or its parts, if it is not the person who harvested the animal, has obtained a shipping permit from the division.

R657-5-21. Purchasing or Selling Big Game or Their Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is unlawfully taken and seized by the division may be sold at any time by the division or its agent.

(b) A person may purchase protected wildlife, which is sold in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Possession of Antlers and Horns.

(1) A person may possess antlers or horns or parts of antlers or horns only from:

(a) lawfully harvested big game;

(b) antlers or horns lawfully purchased as provided in Section R657-5-21; or

(c) shed antlers or horns.

(2) "Shed antler" means an antler which:

(a) has been dropped naturally from a big game animal as part of its annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(3) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

R657-5-23. Poaching-Reported Reward Permits.

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton

destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-a-lifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (2).

(2)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

(3)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar year.

(4)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferable.

(b) If information is received from more than one person, the director of the division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.

(5) Any person who receives a poaching-reported reward permit must be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

(6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.

R657-5-24. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and Application Process for General Buck Deer, General Muzzleloader Elk, and Youth General Any Bull Elk Permits.

(1)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

(b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(c) A person must notify the division of any change of mailing address, residency, telephone number, and physical description.

(2) Applications are available from license agents, division offices, and through the division's Internet address.

(3) A resident may apply in the big game drawing for the following permits:

- (a) only one of the following:
 - (i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;
 - (ii) bull elk - premium limited entry, limited entry and cooperative wildlife management unit; or
 - (iii) buck pronghorn - limited entry and cooperative wildlife management unit; and
- (b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).
- (4) A nonresident may apply in the big game drawing for the following permits:
 - (a) only one of the following:
 - (i) buck deer - premium limited entry and limited entry;
 - (ii) bull elk - premium limited entry and limited entry; or
 - (iii) buck pronghorn - limited entry; and
 - (b) only one once-in-a-lifetime permit.
- (5) A resident or nonresident may apply in the big game drawing for:
 - (a)(i) a statewide general archery buck deer permit;
 - (ii) by region for general season buck deer; or
 - (iii) by region for general muzzleloader buck deer.
 - (b) A youth may apply in the drawing as provided in Subsection (a), and for youth general any bull elk pursuant to Section R657-5-46.
- (6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.
- (7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.
 - (b) If an error is found on an application, the applicant may be contacted for correction.
- (8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed, for the purpose of entering data into the division's draw database to provide:
 - (i) future preprinted applications;
 - (ii) notification by mail of late application and other draw opportunities; and
 - (iii) re-evaluation of division or third-party errors.
- (b) The nonrefundable handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.
- (c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.
- (9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.
- (10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-27(4).
- (12) To apply for a resident permit, a person must be a resident at the time of purchase.
- (13) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-

Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

- (1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:
 - (a) the highest permit fee of any permits applied for;
 - (b) a nonrefundable handling fee for one of the following permits:
 - (i) buck deer;
 - (ii) bull elk; or
 - (iii) buck pronghorn; and
 - (c) the nonrefundable handling fee for a once-in-a-lifetime permit; and
 - (d) the nonrefundable handling fee, if applying only for a bonus point.
- (2) Each general buck deer and general muzzleloader elk application must include:
 - (a) the permit fee, which includes the nonrefundable handling fee; or
 - (b) the nonrefundable handling fee per species, if applying only for a preference point.

R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

- (1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.
 - (b) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.
 - (c) Up to ten people may apply together for general deer permits in the big game drawing.
 - (d) Youth applicants who wish to participate in the Youth General Buck Deer Drawing Process as provided in Subsection R657-5-27(3), must not apply as part of a group.
- (2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.
 - (b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.
 - (3) Group applicants must submit their applications together in the same envelope.
 - (4) Residents and nonresidents may apply together.
 - (5)(a) Group applications shall be processed as one single application.
 - (b) Any bonus points used for a group application, shall be averaged and rounded down.
 - (6) When applying as a group:
 - (a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;
 - (b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;
 - (c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or
 - (d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.
 - (i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.
 - (ii) If any group member has an error on their application

that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.

(1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits for the big game drawing shall be drawn in the following order:

(a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(b) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(c) limited entry and cooperative wildlife management unit buck pronghorn;

(d) once-in-a-lifetime;

(e) youth general buck deer;

(f) general buck deer; and

(g) youth general any bull elk.

(3) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(a) a premium limited entry, limited entry or Cooperative Wildlife Management unit buck deer;

(b) a premium limited entry, limited entry, or Cooperative Wildlife Management unit elk; or

(c) a limited entry or Cooperative Wildlife Management unit buck pronghorn.

(4)(a) Fifteen percent of the general buck deer permits in each region are reserved for youth hunters.

(b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(c) Youth hunters who wish to participate in the youth drawing must:

(i) submit an application in accordance with Section R657-5-24; and

(ii) not apply as a group.

(d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

(e) Preference points shall be used when applying.

(f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

(5) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.

(1) Unsuccessful applicants who applied in the big game drawing and who applied with a check or money order will receive a refund in May.

(2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.

(c) If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.

(3) The handling fees are nonrefundable.

R657-5-29. Permits Remaining After the Drawing.

(1) Permits remaining after the big game drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-30. Waiting Periods for Deer.

(1) A person who obtained a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process during the preceding two years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process, may not apply for any of these permits again for a period of two years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, antlerless deer, conservation, sportsman and poaching-reported reward deer permits; or

(b) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

R657-5-31. Waiting Periods for Elk.

(1) A person who obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman and poaching-reported reward elk permits; or

(b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

R657-5-32. Waiting Periods for Pronghorn.

(1) A person who obtained a buck pronghorn permit through the big game drawing process in the preceding two years, may not apply in the big game drawing for a buck pronghorn permit during the current year.

(2) A person who obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing, may not apply for any of these permits for a period of two years.

(3) A waiting period does not apply to:

(a) doe pronghorn, pronghorn conservation, sportsman and poaching-reported reward permits; or

(b) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

R657-5-33. Waiting Periods for Antlerless Moose.

(1) A person who obtained an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process during the preceding four years, may not apply for an antlerless moose permit during the current year.

(2) A person who obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process in the current year, may not apply for an antlerless moose permit for a period of five years.

(3) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

R657-5-34. Waiting Periods for Once-In-A-Lifetime Species.

(1) Any person who has obtained a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep, or Rocky Mountain goat may not apply for a once-in-a-lifetime permit for the same species in the big game drawing or sportsman permit drawing.

(2) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

R657-5-35. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods provided in Sections R657-5-30 through R657-5-34 do not apply to the purchase of the remaining permits sold over the counter.

(2) However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-5-36. Waiting Periods for Cooperative Wildlife Management Unit Permits and Landowner Permits.

(1)(a) A waiting period or once-in-a-lifetime status does not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (b).

(b) Waiting periods are incurred for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.

R657-5-37. Bonus Point System and Preference Point System.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for permits in the big game drawing; or

(ii) each valid application when applying for bonus points in the big game drawing.

(b) Bonus points are awarded by species.

(c) Bonus points are awarded for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn; and

(iv) all once-in-a-lifetime species.

(3) A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry and cooperative wildlife

management unit; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit; and

(b) only one once-in-a-lifetime, including once-in-a-lifetime cooperative wildlife management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(d) A person may only apply for bonus points in the big game drawing.

(e) Group applications will not be accepted when applying for bonus points.

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the big game drawing.

(6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

(8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(9) Bonus points are not transferable.

(10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(11)(a) Bonus points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching bonus point records.

(c) The Division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.

(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any bonus points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.

(12) Preference points are used in the big game drawing for general buck deer permits to ensure that applicants who are unsuccessful in the drawing for general buck deer permits, will have first preference in the next year's drawing.

(13) A preference point is awarded for:

(a) each valid unsuccessful application when applying for a general buck deer permit; or

(b) each valid application when applying only for a preference point in the big game drawing.

(14)(a) A person may not apply in the drawing for both a general buck deer preference point and a general buck deer permit.

(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.

(c) Preference points shall not be used when obtaining remaining permits after the big game drawing.

(15) Preference points are forfeited if a person obtains a general buck deer permit through the drawing.

(16)(a) Preference points are not transferable.

(b) Preference points shall only be applied to the big game drawing.

(17) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

(18)(a) Preference points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching preference point records.

(c) The Division shall retain electronic copies of applications from 2000 to the current big game drawing for the purpose of researching preference point records.

(d) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any preference points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any preference points earned that are obtained by fraud or misrepresentation.

R657-5-38. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:

(a) one buck deer statewide within a general hunt area, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery ethics course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess the extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general season or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-39. General Season Buck Deer Hunt.

(1) The dates for the general season buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general season buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general season buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

R657-5-40. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in

Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-41. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry and cooperative wildlife management unit buck deer permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-42. Antlerless Deer Hunts.

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b), or any permit valid during the general archery deer hunt, may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

- (i) the permits are both valid for the same area;
 - (ii) the appropriate archery equipment is used if hunting with an archery permit;
 - (iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.
- (b)(i) General archery deer;
- (ii) general muzzleloader deer;
- (iii) limited entry archery deer; or
- (iv) limited entry muzzleloader deer.

R657-5-43. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk

permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units and the Plateau, Fish Lake-Thousand Lakes;

(iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or

(iv) one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery ethics course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess the extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-44. General Season Bull Elk Hunt.

(1) The dates for the general season bull elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following areas:

- (a) Salt Lake County south of I-80 and east of I-15; and
- (b) elk cooperative wildlife management units.

(2)(a) A person may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-45. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

- (a) Salt Lake County south of I-80 and east of I-15; and
- (b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may take a spike bull elk on an any general

spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-46. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the youth any bull elk season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A youth may only obtain a youth any bull elk permit once during their youth.

(2) The youth any bull elk hunting season and areas are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including a spike bull elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-48(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-47. Limited Entry Bull Elk Hunt.

(1) To hunt in a premium limited entry or limited entry bull elk area, a hunter must obtain the respective premium limited entry or limited entry elk permit.

(2)(a) A premium limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and to hunt all seasons specified in the hunt tables, published in the proclamation of the Wildlife Board for taking big game, for the area specified on the permit, except elk cooperative wildlife management units located within a premium limited entry unit. Spike bull elk restrictions do not apply to premium limited entry elk permittees.

(b) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) A person who has obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a premium limited entry or limited entry bull elk permit may not hunt during any other elk

hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-48(3).

R657-5-48. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b), or any permit valid during the general archery deer hunt, may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general archery elk;

(iii) general muzzleloader deer;

(iv) general muzzleloader elk;

(v) limited entry archery deer;

(vi) limited entry archery elk;

(vii) limited entry muzzleloader deer; or

(viii) limited entry muzzleloader elk.

R657-5-49. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt, only archery equipment may be used.

R657-5-50. Doe Pronghorn Hunts.

(1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn, per doe pronghorn tag, using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-51. Antlerless Moose Hunts.

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

R657-5-52. Bull Moose Hunts.

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.

(b) Bull moose permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-53. Bison Hunts.

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw a an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

(6)(a) A person who has obtained a bison permit must

report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-54. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-55. Rocky Mountain Goat Hunts.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) Any goat may be legally taken on a hunter's choice permit, however, permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on

the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) An orientation course is required for Rocky Mountain goat hunters who draw female only goat permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-56. Depredation Hunter Pool Permits.

When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

R657-5-57. Antlerless Application - Deadlines.

(1) Applications are available from license agents, division offices, and through the division's Internet address.

(2) Residents may apply for, and draw the following permits, except as provided in Subsection (4):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.

(3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (4):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose, if permits are available during the current year.

(4) Any person who has obtained a pronghorn permit, or a moose permit may not apply for a doe pronghorn permit or antlerless moose permit, respectively, except as provided in Section R657-5-61.

(5) A person may not submit more than one application in the antlerless drawing per each species as provided in Subsections (2) and (3).

(6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsection R657-5-59(3) and Section R657-5-61.

(7)(a) Applications must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.

(b) If an error is found on an application, the applicant may be contacted for correction.

(8)(a) Late applications, received by the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing,

but will be processed for the purpose of entering data into the division's draw data base to provide:

- (i) future preprinted applications;
- (ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of division or third-party errors.

(b) The nonrefundable handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications received after the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.

(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(10) To apply for a resident permit, a person must establish residency at the time of purchase.

(11) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-58. Fees for Antlerless Applications.

Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except when applying with a credit or debit card, the permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

R657-5-59. Antlerless Big Game Drawing.

(1) The antlerless drawing results may be posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-60. Antlerless Application Refunds.

(1) Unsuccessful applicants, who applied with a check or money order will receive a refund in August.

(2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-26(6).

(3) The handling fees are nonrefundable.

R657-5-61. Over-the-counter Permit Sales After the Antlerless Drawing.

Permits remaining after the drawing will be sold beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game on a first-come, first-served basis from Division offices, through participating online license agents, and through the mail.

R657-5-62. Application Withdrawal or Amendment.

(1)(a) An applicant may withdraw their application for premium limited entry, limited entry, cooperative wildlife

management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the address published in the proclamation of the Wildlife Board for taking big game.

(c) Handling fees will not be refunded.

(2)(a) An applicant may amend their application for the premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the address published in the proclamation of the Wildlife Board for taking big game.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) Handling fees will not be refunded.

(e) An amendment may cause rejection if the amendment causes an error on the application.

R657-5-63. Special Hunts.

(1)(a) In the event that wildlife management objectives are not being met for once-in-a-lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.

(b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once-In-A-Lifetime and Antlerless drawings have been completed.

(2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.

(3) Permits will be allocated through a special drawing for the pertinent species.

R657-5-64. Special Hunt Application - Deadlines.

(1) Applications are available from license agents and division offices.

(2)(a) Residents and nonresidents may apply.

(b) Any person who was unsuccessful in the Bucks, Bulls and Once-In-A-Lifetime or Antlerless drawing may apply. However, any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Bucks, Bulls and Once-In-A-Lifetime

Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(4) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-37. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.

(5) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-63 through R657-5-68.

R657-5-65. Fees for Special Hunt Applications.

(1) Each application must include:

(a) the permit fee for the species applied for; and

(b) a nonrefundable handling fee.

(2)(a) Personal checks, money orders, cashier's checks and credit or debit cards are accepted from residents.

(b) Money orders, cashier's checks and credit or debit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(3)(a) Credit or debit cards must be valid at least 30 days after the drawing results are posted.

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(c) Handling fees are charged to the credit or debit card when the application is processed. Permit fees are charged after the drawing, if successful.

(d) Payments to correct an invalid or refused credit or debit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.

(4) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

R657-5-66. Special Hunt Drawing.

(1) The special hunt drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-67. Special Hunt Application Refunds.

(1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.

(2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(3) The handling fees are nonrefundable.

R657-5-68. Permits Remaining After the Special Hunt Drawing.

Permits remaining after the special hunt drawing may be sold by mail or on a first-come, first-served basis as provided in the addendum to the Bucks, Bulls and Once-In-A-Lifetime or Antlerless Addendum of the Wildlife Board for taking big game.

These permits may be purchased by either residents or nonresidents.

R657-5-69. Carcass Importation.

(1) It is unlawful to import dead elk, mule deer, or white-tailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:

- (a) meat that is cut and wrapped either commercially or privately;
- (b) quarters or other portion of meat with no part of the spinal column or head attached;
- (c) meat that is boned out;
- (d) hides with no heads attached;
- (e) skull plates with antlers attached that have been cleaned of all meat and tissue;
- (f) antlers with no meat or tissue attached;
- (g) upper canine teeth, also known as buglers, whistlers, or ivories; or
- (h) finished taxidermy heads.

(2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer or elk diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.

(b) Importation of harvested elk, mule deer or white-tailed deer or their parts from the affected areas are hereby restricted pursuant to Subsection (1).

(3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from the affected areas are exempt if they:

- (a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;
- (b) do not have their deer or elk processed in Utah; or
- (c) do not leave any parts of the carcass in Utah.

R657-5-70. Chronic Wasting Disease - Infected Animals.

(1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:

- (a) retain the entire carcass of the animal;
- (b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or
- (c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.

(2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the proclamation of the Wildlife Board for taking big game published in the year the new permit is valid.

(3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

KEY: wildlife, game laws, big game seasons

January 15, 2005

Notice of Continuation November 30, 2000

23-14-18

23-14-19

23-16-5

23-16-6

R657. Natural Resources, Wildlife Resources.**R657-13. Taking Fish and Crayfish.****R657-13-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(c) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(d) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(e) "Bait" means a digestible substance, including worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(f) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(g) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(h) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(i) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(j) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass; trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(k) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(l) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(m) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(n) "Length measurement" means the greatest length

between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(o) "Motor" means an electric or internal combustion engine.

(p) "Nongame fish" means species of fish not listed as game fish.

(q) "Possession limit" means, for purposes of this rule only, one bag limit, including fish at home, in a cooler, camper, tent, freezer, or any other place of storage.

(r) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(s) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(t) "Second pole" means fishing with one additional rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, bait, or lures attached to it and is held in the hands of, or within sight of the person fishing.

(u) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(v) "Single hook" means a hook or multiple hooks having a common shank.

(w) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(x) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

(y)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

(z) "Underwater Spearfishing" means, fishing by a person swimming or diving and using a mechanical device held in the hand which uses a rubberband, spring, or pneumatic power to propel a spear to take fish.

R657-13-3. Fishing License Requirements and Free Fishing Day.

(1) A license is not required on free fishing day, the second Saturday of June, annually. All other laws and rules apply.

(2) A person 14 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.

(3) A person under 14 years of age may fish without a license and take a full bag and possession limit.

R657-13-4. Fishing Contests.

(1)(a) A certificate of registration from the division is required for fishing contests:

(i) with 50 or more contestants; or

(ii) any fishing contest offering \$500 or more in prizes.

(b)(i) Application for certificates of registration are available from division offices and must be submitted at least 60 days prior to the date of the fishing contest.

(ii) The division may take public comment before issuing a certificate of registration if, in the opinion of the division, the proposed fishing contest has potential impacts to the public or substantially impacts a public fishery.

(c) A certificate of registration may cover more than one fishing contest.

(d) The division may deny issuing a certificate of registration or impose stipulations or conditions on the issuance of the certificate of registration in order to achieve a management objective, to adequately protect a fishery or to offset impacts on a fishery or heavy uses of other public

resources.

(e) A report must be filed with the division within 30 days after the fishing contest is held. The information required shall be listed on the certificate of registration.

(f)(i) Only one fishing contest may be held on a given water at any time. Each fishing contest is restricted to being held on only one water at a time.

(ii) Fishing contests may not be held on a holiday weekend, state or federal holiday, or free fishing day, except as provided in Subsection (g).

(g) A fishing contest may be held on free fishing day and a certificate of registration is not required if:

(i) contestants are limited to persons 13 years of age or younger; and

(ii) less than \$500 are offered in prizes.

(2) Fishing contests conducted for cold water species of fish such as trout and salmon may not be conducted:

(a) if the fishing contest offers \$500 or more in total prizes, except on Flaming Gorge Reservoir there is no limit to the amount that may be offered in prizes;

(b) those waters where the Wildlife Board has imposed special harvest rules as provided in the annual proclamation of the Wildlife Board for taking fish and crayfish.

(3) Contests for warm water species of fish shall be conducted as follows:

(a) all contests as provided in Subsection (1)(a) must be:

(i) authorized by the division through the issuance of a certificate of registration; and

(ii) carried out consistent with any requirements imposed by the division;

(b) Fish brought in to be weighed or measured may not be released within 1/2 mile of a marina, boat ramp, or other weigh-in site and must be released back into suitable habitat for that species; and

(c) If tournament rules allow larger or smaller fish to be entered in the contest than the size allowed for possession under the proclamation of the Wildlife Board for taking fish and crayfish, the fish must be weighed or measured immediately and released where they were caught.

R657-13-5. Interstate Waters And Reciprocal Fishing Stamps.

(1) Bear Lake

(a) The holder of a valid Utah or Idaho fishing or combination license may fish within both the Utah and Idaho boundaries of Bear Lake.

(b) Only one bag limit may be taken and held in possession even if licensed in both states.

(2) Reciprocal Fishing Stamps.

(a) The purchase of a reciprocal fishing stamp allows a person to fish across state boundaries of interstate waters.

(b) Reciprocal fishing stamps are offered for Lake Powell and Flaming Gorge Reservoir (See Subsections (3) and (4)).

(c) Utah residents may obtain reciprocal fishing stamps by contacting the state of Arizona for Lake Powell and the state of Wyoming for Flaming Gorge.

(d) Nonresidents may obtain reciprocal fishing stamps from division offices and selected license agents.

(e) The reciprocal fishing stamp must be:

(i) used in conjunction with a valid unexpired fishing or combination license from a reciprocating state;

(ii) signed across the face by the holder as the holder's name appears on the valid unexpired fishing or combination license from the reciprocating state; and

(iii) attached to the fishing or combination license from the reciprocating state.

(f) Reciprocal fishing stamps are valid on a calendar year basis.

(g) Anglers are subject to the laws and rules of the state in

which they are fishing.

(h) Only one bag limit may be taken and held in possession even if licensed in both states.

(3) Lake Powell Reservoir

(a) Any person qualifying as an Arizona resident and having in their possession a valid resident Arizona fishing license and a Utah reciprocal fishing stamp for Lake Powell can fish within the Utah boundaries of Lake Powell.

(b) Any person who is not a resident of Utah or Arizona must purchase the appropriate nonresident licenses for Utah and Arizona to fish both sides of Lake Powell.

(c) Only Utah and Arizona residents are allowed to purchase reciprocal stamps to fish both sides of Lake Powell.

(4) Flaming Gorge Reservoir

Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing stamp for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.

R657-13-6. Angling.

(1) While angling, the angler shall be within sight (not to exceed 100 feet) of the equipment being used at all times, except setlines.

(2) Angling with more than one line is unlawful, except while fishing for crayfish without the use of fish hooks and on selected waters with a valid second pole permit. A second pole permit is not required when fishing for crayfish with lines without hooks.

(3) No artificial lure may have more than three hooks.

(4) No line may have attached to it more than two baited hooks, two artificial flies, or two artificial lures, except for a setline or while fishing at Flaming Gorge Reservoir.

(5) When angling through the ice, the hole may not exceed 12 inches across at the widest point, except at Bear Lake, Flaming Gorge Reservoir, and Fish Lake where specific limitations apply.

R657-13-7. Fishing With a Second Pole.

(1) A person may use a second pole to take fish only in the:

(a) Bear River from the Idaho state line downstream, including Cutler Reservoir and the outlet canals;

(b) Little Bear River below Valley View highway (SR-130);

(c) Malad River;

(d) Newton Reservoir;

(e) Hyrum Reservoir;

(f) Willard Bay Reservoir;

(g) Pine View Reservoir;

(h) Flaming Gorge Reservoir;

(i) Pelican Lake;

(j) Starvation Reservoir;

(k) Utah Lake;

(l) Yuba Reservoir;

(m) D.M.A.D.;

(n) Gunnison Bend;

(o) Lake Powell; and

(p) Gunlock Reservoir.

(2)(a) A second pole permit may be obtained at license agents and any division office.

(b) A second pole permit is required in addition to a valid Utah one day, seven day or season fishing license, or combination license.

(c) A second pole permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.

(3) Anglers under 14 years of age must purchase a valid fishing or combination license and second pole permit in order to use a second pole.

(4) A second pole permit shall only be used by the person to whom the second pole permit was issued.

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish only in the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

(2)(a) Angling with one pole is permitted while setline fishing, except as provided in Subsection (b).

(b) A person who obtains a second pole permit may fish with two poles while setline fishing.

(3) No more than one setline per angler may be used and it may not contain more than 15 hooks.

(4)(a) A setline permit may be obtained at any division office.

(b) A setline permit is required in addition to a valid Utah one day, seven day or season fishing or combination license.

(c) A setline permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.

(5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.

(6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a legible tag with the name, address, and setline permit number of the angler.

(7) Anglers under 14 years of age must purchase a valid Utah one day, seven day or season fishing or combination license and setline permit in order to use a setline.

R657-13-9. Underwater Spearfishing.

(1) Underwater spearfishing is permitted from official sunrise to official sunset.

(2) Use of artificial light is unlawful while underwater spearfishing.

(3) Causey Reservoir, Deer Creek Reservoir, Fish Lake, Flaming Gorge Reservoir, Joe's Valley Reservoir, Ken's Lake, Lake Powell, Lost Creek Reservoir, Red Fleet Reservoir, Steinaker Reservoir, Starvation Reservoir, and Willard Bay Reservoir are open to taking game fish by means of underwater spearfishing from June 1 through September 30. These are the only waters open to underwater spearfishing for game fish.

(4) Lake Powell is open to taking carp and striped bass by means of underwater spearfishing from January 1 through December 31.

(5) The bag and possession limit is two game fish. No more than one fish greater than 20 inches may be taken, except at Flaming Gorge Reservoir only one lake trout (mackinaw) greater than 28 inches may be taken.

(6) Nongame fish may be taken by underwater spearfishing only in the waters listed in Subsections (3) and (4) above and as provided in Section R657-13-14.

R657-13-10. Dipnetting.

(1) Hand-held dipnets may be used to take Bonneville cisco only at Bear Lake.

(2) The opening of the dipnet may not exceed 18 inches.

(3) When dipnetting through the ice, the size of the hole is unrestricted.

R657-13-11. Restrictions on Taking Fish and Crayfish.

(1) Artificial light is permitted, except when underwater spearfishing.

(2) A person may not obstruct a waterway, use a chemical, explosive, electricity, poison, crossbow, firearm, pellet gun, or archery equipment to take fish or crayfish, except as provided in Subsection R657-13-14(1)(c) and Section R657-13-20.

(3) A person may not take protected aquatic wildlife by

snagging or gaffing; however, a gaff may be used to land fish caught by lawful means, except at Flaming Gorge Reservoir and Fish Lake.

(4) Chumming is prohibited on all waters, except as provided in Section R657-13-20.

(5) The use of a float tube or a boat, with or without a motor, for fishing is unlawful on some waters. Boaters should be aware that other agencies may have additional restrictions on the use of float tubes, boats, or boats with motors on some waters.

(6) Nongame fish and crayfish may be taken only as provided in Sections R657-13-14 and R657-13-15.

R657-13-12. Bait.

(1)(a) Fishing is permitted with any bait, except corn, hominy, or live fish.

(b) Possession or use of corn or hominy while fishing is unlawful.

(2) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(3) Game fish or their parts may not be used, except for the following:

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Rockport, Starvation, Utah Lake and Willard Bay reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) The eggs of any species of fish, except prohibited fish, may be used. However, eggs may not be taken or used from fish that are being released.

(4) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

(5) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

R657-13-13. Prohibited Fish.

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

(a) Bonytail (*Gila elegans*);

(b) Bluehead sucker (*Catostomus discobolus*);

(c) Colorado pikeminnow (*Ptychocheilus lucius*);

(d) Flannelmouth sucker (*Catostomus latipinnis*);

(e) Gizzard shad (*Dorosoma cepedianum*);

(f) Grass carp (*Ctenopharyngodon idella*);

(g) Humpback chub (*Gila cypha*);

(h) June sucker (*Chasmistes liorus*);

(i) Least chub (*Iotichthys phlegethontis*);

(j) Leatherside chub (*Snyderichthys copei*);

(k) Razorback sucker (*Xyrauchen texanus*);

(l) Roundtail chub (*Gila robusta*);

(m) Virgin River chub (*Gila seminuda*);

(n) Virgin spinedace (*Lepidomeda mollispinis*); and

(o) Woundfin (*Plagopterus argentissimus*).

(2) Any of these species taken while attempting to take other legal species shall be immediately released.

R657-13-14. Taking Nongame Fish.

(1)(a) Except as provided in Subsections (b) and (c), a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes

during the open fishing season set for the given body of water.

(b) A person may not take any species of fish designated as prohibited in Section R657-13-13.

(c) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, spear, or underwater spearfishing:

(i) San Juan River;

(ii) Colorado River;

(iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National Monument);

(iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);

(v) White River (Uintah County);

(vi) Duchesne River (from Myton to confluence with Green River);

(vii) Virgin River (Main stem, North, and East Forks).

(viii) Ash Creek;

(ix) Beaver Dam Wash;

(x) Fort Pierce Wash;

(xi) La Verkin Creek;

(xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);

(xiii) Diamond Fork;

(xiv) Thistle Creek;

(xv) Main Canyon Creek (tributary to Wallsburg Creek);

(xvi) South Fork of Provo River (below Deer Creek Dam);

and

(xvii) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties).

(2) Nongame fish, except those species listed in Section R657-13-13, may be taken by angling, traps, bow and arrow, liftnets, seine, spear or underwater spearfishing in the waters specified in Subsection R657-13-9(3).

(3) Seines shall not exceed 10 feet in length or width.

(4) Cast nets must not exceed 10 feet in diameter.

(5) Lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-15. Taking Crayfish.

(1) A person possessing a valid Utah fishing or combination license may take crayfish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(2) Crayfish may be taken by hand or with a trap, pole, liftnet, handline, or seine, provided that:

(a) game fish or their parts, or any substance unlawful for angling, is not used for bait;

(b) seines shall not exceed 10 feet in length or width;

(c) no more than five lines are used, and no more than one line may have hooks attached (bait is tied to the line so that the crayfish grasps the bait with its claw); and

(d) live crayfish are not transported from the body of water where taken.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

(1) Fish held in possession in the field or in transit shall be kept in such a manner that:

(a) the species of fish can be readily identified;

(b) the number of fish can be readily counted;

(c) the size of the fish can be readily measured when the fish are taken from waters where size limits apply and the fish taken from those waters may not be filleted and the heads or tails may not be removed; and

(d) fillets shall have attached sufficient skin to include the conspicuous markings so species may be identified.

(2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.

(3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.

(4) A person may not take more than one bag limit in any one day or possess more than one bag limit of each species or species aggregate regardless of the number of days spent fishing.

(5) A person may possess or transport dead fish on a receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

(a) the number and species of fish;

(b) date caught;

(c) the certificate of registration number of the installation, pond, or short-term fishing event; and

(d) the name, address, telephone number of the seller.

R657-13-17. Possession of Live Fish and Crayfish.

(1) A person may not possess or transport live protected aquatic wildlife except as provided by the Wildlife Code or the rules and proclamation of the Wildlife Board.

(2) For purposes of this rule, a person may not transport live fish or crayfish away from the water where taken.

(3) This does not preclude the use of live fish stringers, live wells, or hold type cages as part of normal angling procedures while on the same water in which the fish or crayfish are taken.

R657-13-18. Release of Tagged or Marked Fish.

Without prior authorization from the division, a person may not:

(1) tag, mark, or fin-clip fish for the purpose of offering a prize or reward as part of a contest;

(2) introduce a tagged, marked, or fin-clipped fish into the water; or

(3) tag, mark, or fin-clip a fish and return it to the water.

R657-13-19. Season Dates and Bag and Possession Limits.

(1) All waters of state fish rearing and spawning facilities are closed to fishing.

(2) State waterfowl management areas are closed to fishing except as specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(3) The season for taking fish and crayfish is January 1 through December 31, 24 hours each day. Exceptions are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(4)(a) Bag and possession limits are specified in the proclamation of the Wildlife Board for taking fish and crayfish and apply statewide unless otherwise specified.

(b)(i) A person may not fish in waters that have a specific bag or size limit while possessing fish in violation of that limit.

(ii) Fish not meeting the size, bag, or species provisions on specified waters shall be returned to the water immediately.

(c)(i) Trout, salmon and grayling that are not immediately released and are held in possession, dead or alive, are included in the person's bag and possession limit.

(ii) Once a trout, salmon or grayling is held in or on a stringer, fish basket, livewell, or by any other device, a trout, salmon or grayling may not be released.

(5) A person may not take more than one bag limit in any one day or have in possession more than one bag limit of each species or species aggregate regardless of the number of days spent on fishing.

R657-13-20. Variations to General Provisions.

Variations to season dates, times, bag and possession limits, methods of take, use of a float tube or a boat for fishing, and exceptions to closed areas are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-21. One-Day Fishing Stamps.

(1)(a) A person may purchase a one-day fishing stamp to extend a one-day or seven-day fishing license provided the person has obtained a valid Utah one-day or seven-day fishing license.

(b) A person must present the one-day or seven-day fishing license to the Division or license agent upon purchasing a one-day fishing stamp.

(2) A one-day fishing stamp will extend the one-day or seven-day fishing license within the current year for one additional day.

(3) The effective date shall be indicated on the one-day fishing stamp.

KEY: fish, fishing, wildlife, wildlife law

January 3, 2005

Notice of Continuation September 20, 2002

23-14-18

23-14-19

23-19-1

23-22-3

R657. Natural Resources, Wildlife Resources.**R657-37. Cooperative Wildlife Management Units for Big Game.****R657-37-1. Purpose and Authority.**

(1) Under authority of Section 23-23-3, this rule provides the standards and procedures applicable to Cooperative Wildlife Management units organized for the hunting of big game.

(2) Cooperative Wildlife Management units are established to:

- (a) increase wildlife resources;
- (b) provide income to landowners;
- (c) provide the general public access to private and public lands for hunting big game within a Cooperative Wildlife Management Unit;
- (d) create satisfying hunting opportunities; and
- (e) provide adequate protection to landowners who open their lands for hunting.

R657-37-2. Definitions.

(1) Terms used in this rule are defined in Sections 23-13-2 and 23-23-2.

(2) In addition:

(a) "CWMU" means Cooperative Wildlife Management Unit.

(b) "CWMU agent" means a person appointed by a landowner association member or landowner association operator to protect private property within the CWMU.

(c) "General public" means all persons except landowner association members, landowner association operators and their spouse or dependant children.

(d) "Landowner association member" means a landowner or an organization of owners of private land who sign the CWMU application form.

(e) "Landowner association operator" means a person designated by a landowner association member to operate the CWMU.

(f) "Voucher" means a document issued by the division to a landowner association member or landowner association operator, allowing a landowner association member or landowner association operator, to designate who may purchase a CWMU big game hunting permit from a division office.

R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.

(1)(a) The minimum allowable acreage for a CWMU is 10,000 contiguous acres, except as provided in Subsection (2).

(b) The land comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, shall not be included as part of any big game CWMU.

(2)(a) The Wildlife Board may renew a CWMU that is less than 10,000 acres provided the CWMU legally possessed a CWMU Certificate of Registration during the previous year, allowing for acreage less than 10,000 contiguous acres or allowing noncontiguous land parcels; or

(b) the Wildlife Board may approve a new CWMU for deer or pronghorn that is at least 5,000 contiguous acres provided:

(i) the property is capable of independently maintaining the presence of the respective big game species and harboring them during the period of big game hunting;

(ii) the property is capable of accommodating the anticipated number of hunters and providing a reasonable hunting opportunity;

(iii) the property exhibits enforceable boundaries clearly identifiable to both the public and private hunters; and

(iv) the CWMU contributes to meeting division wildlife management objectives; or

(c) the Wildlife Board may renew a CWMU that is less

than 5,000 acres provided the CWMU legally possessed a CWMU Certificate of Registration during the previous year, allowing for acreage less than 5,000 contiguous acres or allowing noncontiguous land parcels.

(3)(a) Cooperative Wildlife Management Units organized for hunting big game, shall consist of private land to the extent practicable.

(b) The Wildlife Board may approve a CWMU containing public land only if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

(ii) the public land is necessary to establish an enforceable boundary clearly identifiable to both the general public and private permit holders; or

(iii) the public land is necessary to achieve statewide and unit management objectives.

(c) If any public land is included within a CWMU, the landowner association member must meet applicable federal and state land use requirements on the public land.

(d) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportional habitat on public land to private land within the CWMU pursuant to Subsection R657-37-4(3)(a)(iv).

R657-37-4. Cooperative Wildlife Management Unit Management Plan.

(1) The landowner association member must manage the CWMU in compliance with a CWMU Management Plan consistent with statewide and unit management objectives for the respective big game unit and approved by the Wildlife Board.

(2)(a) The CWMU Management Plan may be approved by the Wildlife Board for a period of five years, expiring on January 31 at the end of the five-year period.

(b) The CWMU Management Plan must be amended when the management plan, land ownership, or CWMU acreage changes.

(c) The CWMU Management Plan may be amended as requested by the Wildlife Board, the division or the CWMU landowner association member or operator.

(3)(a) The CWMU Management Plan must include:

(i) big game management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game unit, including population management and antlerless harvest;

(ii) procedures for obtaining age and harvest data;

(iii) an explanation of how comparable hunting opportunities will be provided to both the private and public permit holders on the CWMU as required in Section 23-23-7.5 and Rule R657-37-7(3)(a);

(iv) a clear explanation of the purpose for including public land within the CWMU boundaries, if public land is included;

(v) an explanation of how the public is compensated by the CWMU when public land is included;

(vi) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;

(vii) County Recorder Plat Maps or equivalent maps, dated by receipt of purchase within 30 days of the initial or renewal application deadline for a certificate of registration, depicting boundaries and ownership for all property within the CWMU;

(viii) two original 1:100,000 USGS maps, which must be filed in the appropriate regional division office and the Salt Lake office, depicting all interior and exterior boundaries of the proposed CWMU; and

(ix) strategies and methods that avoid adverse impacts to adjacent landowners resulting from the operation of the CWMU, including the provisions provided in Section R657-37-

7(6).

(b) The division shall, upon the applicant's request, provide assistance in preparing the CWMU Management Plan.

R657-37-5. Application for Certificate of Registration.

(1)(a) An application for a CWMU Certificate of Registration must be completed and returned to the regional division office where the proposed CWMU is located no later than August 1.

(b) An application for a new CWMU Certificate of Registration must be completed when:

(i) a CWMU Certificate of Registration has not been issued for sixty-six percent or more of the private land included within a CWMU;

(ii) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or

(iii) sixty-six percent or more of the private land within the CWMU is under new ownership.

(2) The application must be accompanied by:

(a) the CWMU Management Plan as described in R657-37-4(3), including all maps;

(b)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(c) the name of the designated landowner association operator; and

(d) the nonrefundable handling fee.

(3) The division may reject any application that is incomplete or completed incorrectly.

(4) The division shall forward the complete and correct application and required documentation to the Regional Advisory Councils and Wildlife Board for consideration.

(5) Upon receiving the application and recommendation from the division, the Wildlife Board may:

(a) authorize the issuance of a certificate of registration, for one year, allowing the landowner association member to operate a CWMU; or

(b) deny the application and provide the landowner association member with reasons for the decision.

(6)(a) A landowner association member or landowner association operator issued a certificate of registration must request an amendment to the original certificate of registration as provided in Subsection (b) or through the renewal process described in R657-37-6 for any variation in:

(i) the CWMU Management Plan; or

(ii) any other matter related to the management and operation of the CWMU not originally included in the certificate of registration.

(b) A request for an amendment to a certificate of registration to allow a CWMU permit holder to hunt within a reciprocal CWMU must be made in writing and submitted to the appropriate regional division office where the CWMU is located.

(i) Upon review by the region and Wildlife Section and upon approval by the director, an amendment to the original certificate of registration shall be issued in writing.

(7) The Wildlife Board shall consider any violation of the provisions of Title 23, Wildlife Resources Code and any information provided by the division, landowners, and the public in determining whether to authorize the issuance of a certificate of registration for a CWMU.

(8) A CWMU Certificate of Registration is issued on an annual basis and shall expire on January 31, providing the certificate of registration is not suspended or revoked prior to the expiration date.

(9) The CWMU application/agreement is binding upon the landowner association members, landowner association operators and all successors in interest to the CWMU property or the hunting rights thereon as it pertains to allowing public permit holders reasonable access to all CWMU property during the applicable hunting seasons for purposes of filling the permit.

R657-37-6. Renewal of a Certificate of Registration.

(1)(a) A CWMU Certificate of Registration must be renewed annually and may be approved by the division, except as provided in Subsections (b) and (c).

(b) If any changes occur in the activities or information authorized in the current certificate of registration or CWMU Management Plan, the renewal must be considered for approval by the Wildlife Board.

(c)(i) A CWMU Certificate of Registration shall not be renewed if:

(A) a CWMU Certificate of Registration has not been issued for sixty-six percent or more of the private land included within a CWMU;

(B) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or

(C) sixty-six percent or more of the private land within the CWMU is under new ownership.

(ii) If a CWMU Certificate of Registration is not renewable under this Subsection, an application for a new CWMU Certificate of Registration must be completed as provided in Section R657-37-5.

(2)(a) An application for renewal of a certificate of registration must be completed and returned to the regional division office where the CWMU is established no later than September 1, 2003, for renewal of a CWMU certificate of registration for 2004.

(b) An application for renewal of a certificate of registration after 2003, must be completed and returned to the regional division office where the CWMU is established no later than August 1.

(3) The renewal application must identify all changes from the previous years CWMU Certificate of Registration or CWMU Management Plan.

(4) The renewal application must be accompanied by:

(a) the CWMU Management Plan as described in Section R657-37-4(3), if the plan has expired or is being amended; and

(b) all maps as described in Section R657-37-4(3) if the CWMU boundaries have changed; or

(c)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(d) the name of the designated landowner association operator; and

(e) the nonrefundable handling fee.

(5) The division may reject any application that is incomplete or completed incorrectly.

(6) The division shall consider:

(a) the previous performance of the CWMU, including the actions of the landowner association member or landowner association operator when reviewing renewal of the certificate

of registration; and

(b) any violation of Title 23, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided from any source related to the applicant's fitness to operate a CWMU.

(7) The division shall:

(a) approve the renewal Certificate of Registration and forward the permit recommendations to the Regional Advisory Councils and Wildlife Board; or

(b) deny the renewal Certificate of Registration and state the reasons for denial in writing to the applicant; and

(i) forward the application, reason for denial and recommendation to the Regional Advisory Councils and Wildlife Board; and

(iii) provide the applicant with information for seeking Wildlife Board review of the denial.

(8) Upon receiving the division's recommendation as provided in Subsection (b)(i), the Wildlife Board may consider:

(a) the previous performance of the CWMU, including the actions of the landowner association member or landowner association operator when reviewing renewal of the certificate of registration; and

(b) any violation of Title 23, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided from any source related to the applicant's fitness to operate a CWMU.

(9) A CWMU Certificate of Registration for renewal is authorized annually and shall expire on January 31, providing the certificate of registration is not revoked or suspended prior to the expiration date.

R657-37-7. Operation by Landowner Association.

(1)(a) A CWMU must be operated by a landowner association member who owns land within the CWMU or a landowner association operator who leases or otherwise controls hunting on land within the CWMU.

(b) A landowner association member or landowner association operator may appoint CWMU agents to protect private property within the CWMU; however, the landowner association member or landowner association operator must assume ultimate responsibility for the operation of the CWMU.

(2)(a) A landowner association member or landowner association operator may enter into reciprocal agreements with other landowner association members or landowner association operators to allow hunters who have obtained a CWMU permit to hunt within each other's CWMUs as provided in Subsections R657-37-5(6)(b) and R657-37-7(2)(b).

(b) Reciprocal hunting agreements may be approved only to:

(i) raise funds to address joint habitat improvement projects;

(ii) address emergency situations limiting hunting opportunity on a CWMU; or

(iii) raise funds to aid in essential management practices for the benefit of CWMU species, including obtaining age or species population data as recommended by regional division personnel and approved by the division's wildlife section chief.

(c) If a person is authorized to hunt in one or more CWMUs as provided in Subsection (a), written permission from the landowner association member or landowner association operator and written authorization from the division must be in the person's possession while hunting.

(3)(a) A landowner association member or landowner association operator must provide any person who has obtained a permit, including general public permittees, a comparable hunting opportunity in terms of hunting area and number of days to hunt big game.

(b) A person who has obtained a CWMU permit may hunt only in the CWMU for which the permit is issued, except as

provided under Subsection (2).

(4)(a) Each landowner association member or landowner association operator must:

(i) clearly post all boundaries with signs that are 8 1/2 by 11 inches on a bright yellow background with black lettering, and that contain the language provided in Subsection (b); and

(ii) clearly display signs on the CWMU at all corners, fishing streams crossing property lines, road, gates, and rights-of-way entering the land.

(b) A CWMU is created under an agreement between private landowners and the division, and approved by the Wildlife Board. Only persons with a valid CWMU permit for the CWMU may hunt moose, deer, elk or pronghorn within the boundaries of the CWMU. The general public may use accessible public land portions of the CWMU for all legal purposes, except hunting for moose, deer, elk or pronghorn.

(5) A landowner association member or landowner association operator must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the CWMU to each permit holder.

(6)(a) A CWMU and the division shall cooperatively address the needs of landowners who are negatively impacted by big game animals associated with the CWMU.

(b) The CWMU and the division shall cooperatively seek methods to prevent or mitigate agricultural depredation caused by big game animals associated with the CWMU.

R657-37-8. Cooperative Wildlife Management Unit Agents.

(1) A landowner association member may appoint CWMU agents to monitor access and protect the private property of the CWMU.

(2) Each CWMU agent must wear or have in possession a form of identification prescribed by the Wildlife Board which indicates the agent is a CWMU agent.

(3) A CWMU agent may refuse entry into the private land portions of a CWMU to any person, except owners of land within the unit and their employees, who:

(a) does not have in their possession a CWMU permit;

(b) endangers or has endangered human safety;

(c) damages or has damaged private property within a CWMU; or

(d) fails or has failed to comply with reasonable rules of a landowner association.

(4) A CWMU agent may not refuse entry to the general public onto any public land within the boundaries of a CWMU that is otherwise accessible to the public for purposes other than hunting big game for which the CWMU is authorized.

(5) In performing the functions described in this section, a CWMU agent must comply with the relevant laws of this state.

R657-37-9. Permit Allocation.

(1) The division shall issue CWMU permits for hunting big game to permittees:

(a) qualifying through a drawing conducted for the general public as defined in Subsection R657-37-2(2)(c); or

(b) named by the landowner association member or landowner association operator.

(2) A landowner association member or landowner association operator shall be issued vouchers that may be used to purchase hunting permits from division offices.

(3) The division and the landowner association member must, in accordance with the tables provided in Subsection (4), jointly determine:

(a) the total number of permits to be issued for the CWMU; and

(b) the number of permits that may be offered by the landowner association member to the general public as defined in Subsection R657-37-2(c).

(4)(a) Permits may be allocated using an option from:

- (i) table one for moose and pronghorn; or
- (ii) table two for elk and deer.
- (b) At least one buck or bull permit or at least 10% of the bucks or bulls permits, whichever is greater, must be made available to the general public through the big game drawing process.
- (c) Permits shall not be issued for spike bull elk.

TABLE 1

MOOSE AND PRONGHORN		
Cooperative Wildlife Management Option	Bucks/Bulls	Unit's Share
1	60%	0%
2	60%	40%
Public's Share		
Option	Bucks/Bulls	Antlerless
1	40%	0%
2	40%	60%

TABLE 2

ELK AND DEER		
Cooperative Wildlife Management Option	Bucks/Bulls	Unit's Share
1	90%	0%
2	85%	25%
3	80%	40%
4	75%	50%
Public's Share		
Option	Bucks/Bulls	Antlerless
1	10%	100%
2	15%	75%
3	20%	60%
4	25%	50%

(5) Antlerless permits must be allocated to the CWMU proportional to the ratio of numbers of big game species using the CWMU compared to the total herd population of the respective big game species on the herd management unit.

(6) A landowner association member or landowner association operator must provide access free of charge to any person who has received a CWMU permit through the general public big game drawings, except as provided in Section 23-23-11.

(7) If the division and the landowner association member disagree on the number of permits to be issued, the number of permits allocated for a species or sex of big game, or the method of take, the Wildlife Board shall make the determination based on the biological needs of the big game herds, including available forage, depredation, and other mitigating factors.

(8) A CWMU permit entitles the holder to hunt the species and sex of big game specified on the permit and only in accordance with the certificate of registration and the rules and proclamations of the Wildlife Board.

(9) Vouchers for antlerless permits may be designated by a landowner association member to any eligible person as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, and Rule R657-42.

(11)(a) A complete list of the current CWMUs, big game hunts, and the date, time, and number of permits available for public drawing shall be published in the proclamation of the Wildlife Board for taking big game.

(b) The division reserves the exclusive right to list approved CWMUs in the proclamation of the Wildlife Board for taking big game. The division may unilaterally decline to list a CWMU in the proclamation where the unit is under investigation for wildlife violations, a portion of the property comprising the CWMU is transferred to a new owner, or any other condition or circumstance that calls into question the CWMUs ability or willingness to allow a meaningful hunting opportunity to all the public permit holders that would otherwise draw out on the public permits.

R657-37-10. Permit Cost.

The fee for permits allocated to any CWMU is the same as the applicable:

- (a) limited entry permit fee for elk and pronghorn;
- (b) general season, limited entry or premium limited entry permit fee for deer; and
- (c) once-in-a-lifetime permit fee for moose.

R657-37-11. Possession of Permits and License by Hunters - Restrictions.

(1) A person may not hunt in a CWMU without having in his possession:

- (a) a valid CWMU permit; and
- (b) the necessary hunting licenses, permits and tags.
- (2) A CWMU permit:
 - (a) entitles the holder to hunt only on the CWMU specified on the permit pursuant to the rules of the Wildlife Board and does not entitle the holder to hunt on any other public or private land, except as provided under Subsection R657-37-7(2)(a); and
 - (b) constitutes written permission for trespass as required under Section 23-20-14.

(3) Prior to hunting on a CWMU each permittee must:

- (a) contact the relevant landowner association member or landowner association operator and request the CWMU rules and requirements; and
- (b) make arrangements with the landowner association member or landowner association operator for the hunt.

R657-37-12. Season Lengths.

(1) A landowner association member or landowner association operator may arrange for permittees to hunt on the CWMU during the following dates:

(a) an archery buck deer season may be established beginning with the opening of the general archery deer season through August 31 and during the sixty-one consecutive day buck deer season;

(b) an archery bull elk season may be established beginning with the opening of the general archery elk season through October 31 and during a bull elk season variance;

(c) general season bull elk, pronghorn, and moose seasons may be established September 1 through October 31, or the closing date of the general season for the respective species, whichever is later;

(d)(i) general buck deer seasons may be established for no longer than sixty-one consecutive days from September 1 through November 10;

(ii) a landowner association member or landowner association operator electing to establish buck deer hunting in November must:

- (A) meet the CWMU management plan objectives;
- (B) not exceed average hunter density exhibited on the surrounding deer wildlife management units;
- (C) provide positive hunter satisfaction; and
- (D) maintain a harvest success rate at least equal to the surrounding deer wildlife management units;

(E) designate the CWMU's sixty-one consecutive day season in the annual application, or if the sixty-one day consecutive season is not designated the season shall begin September 1;

(F) allow public hunters the option to hunt in November;

(e) muzzleloader bull elk seasons may be established September 1 through the end of the general muzzleloader elk season and during a bull elk season variance;

(f) antlerless elk seasons may be established August 15 through January 31; and

(g) antlerless deer seasons may be established August 15 through December 31.

(2) The Wildlife Board may authorize bulk elk hunting

season variances only if the CWMU landowner association member or landowner association operator clearly demonstrates that November hunting is necessary on the CWMU.

R657-37-13. Rights-of-Way.

A landowner association member may not restrict established public access to public land enclosed by the CWMU.

R657-37-14. Discipline or Violation.

(1) The Wildlife Board may refuse to issue a certificate of registration to an applicant, and may refuse to renew or may revoke, restrict, place on probation, or otherwise act upon a certificate of registration where the holder has:

(a) violated any provision of this rule, the Wildlife Resources Code, the certificate of registration, or the CWMU application/agreement; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship to the operator's or applicant's ability to safely and responsibly operate a CWMU.

(2) The procedures and rules governing any adverse action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

R657-37-15. Cooperative Wildlife Management Unit Advisory Committee.

(1) A CWMU Advisory Committee shall be created consisting of seven members nominated by the director and approved by the Wildlife Board.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two CWMU representatives;

(c) one agricultural representative;

(d) one at-large public representative; and

(e) one elected official.

(3) The committee shall be chaired by the Wildlife Section Chief, who shall be a non-voting member.

(4) The committee shall:

(a) hear complaints dealing with fair and equitable treatment of hunters on CWMUs;

(b) review the operation of the CWMU program; and

(c) make advisory recommendations to the director and Wildlife Board on the matters in Subsections (a) and (b).

(5) The Wildlife Section Chief shall determine the agenda, and time and location of the meetings.

(6) The director shall set staggered terms of appointment of members in order to assure that all committee members' terms shall expire after four years, and at least three members shall expire after the initial two years.

KEY: wildlife, cooperative wildlife management unit

January 15, 2005

23-23-3

Notice of Continuation May 14, 2003

R657. Natural Resources, Wildlife Resources.**R657-38. Dedicated Hunter Program.****R657-38-1. Purpose and Authority.**

(1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program provides the opportunity for participants to:

(a) increase the opportunity for recreational general deer hunting, while the division regulates harvest;

(b) increase participation in wildlife management decisions;

(c) increase participation in wildlife conservation projects that are beneficial to wildlife conservation and the division; and

(d) attend wildlife conservation courses about hunter ethics and the division's wildlife conservation philosophies and strategies.

R657-38-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Dedicated Hunter Permit" means a general buck deer permit issued to a dedicated hunter participant in the Dedicated Hunter Program, which authorizes the participant to hunt general archery, general season and general muzzleloader in the region specified on the permit.

(b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general season or general muzzleloader deer hunting is open to permit holders for taking deer.

(c) "Limited Entry Dedicated Hunter Permit" means a limited entry deer permit or limited entry elk permit, for use in an area selected by the Division, which shall be offered through the Dedicated Hunter Program Drawing.

(d) "Participant" means a person who has remitted the appropriate fee and has been issued a certificate of registration for the Dedicated Hunter Program.

(e) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.

(f) "Program harvest" means tagging a deer with a Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit, or failing to return the Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit with an attached, unused tag, while enrolled in the program.

(g) "Program requirements" mean the Wildlife Conservation Course as provided in Section R657-38-5, the Wildlife Conservation Project as provided in Section R657-38-6, the Regional Advisory Council meeting as provided in Section R657-38-7, and returning an unused Dedicated Hunter Permit and attached tag as provided in Subsection R657-38-9(1).

(h) "Wildlife conservation course" means a course of instruction provided by the division on hunter ethics and wildlife conservation philosophies and strategies.

(i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement on public or private lands, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division.

(j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and maintaining and reporting records of service hours to the division.

R657-38-3. Certificate of Registration Required.

(1) A person may not participate in the program if that

person has been convicted of or entered a plea in abeyance to any of the following classes of violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license suspension:

(a) felony;

(b) Class A misdemeanor in the last five years; or

(c) three or more Class B or Class C misdemeanors in the past five years.

(2)(a) To participate in the program a person must obtain and sign a certificate of registration from the division.

(b) No more than ten thousand certificates of registration for the program may be in effect at any given time.

(c) Certificates of registration are issued on a first-come, first-served basis at division offices.

(d) Each prospective participant must provide evidence of having completed a wildlife conservation course before the division may issue the certificate of registration for the program.

(e) A certificate of registration to participate in the program shall only be issued January 1 through January 31 annually, unless January 1 or January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(3) Each certificate of registration is valid for three consecutive general deer hunting seasons.

(4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the calendar year in which the certificate of registration is issued.

(b) Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.

(c) Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.

(5) A certificate of registration authorizes the participant an opportunity to receive annually a Dedicated Hunter Permit to hunt during the general archery, general season and general muzzleloader deer hunts. The Dedicated Hunter Permit may be used during the dates and within the hunt area boundaries established by the Wildlife Board.

(6)(a) Except as provided in Subsections (b), and R657-38-8(7), a participant using a Dedicated Hunter Permit may take two deer within three years of enrollment, and only one deer in any one year as provided in Rule R657-5.

(b) Participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in this rule during the three-year term of enrollment.

(c) The harvest of an antlerless deer using a Dedicated Hunter Permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.

(7) The certificate of registration must be signed by the participant. The certificate of registration is not valid without the required signature.

(8) The participant and holder of the certificate of registration must have a valid Dedicated Hunter Permit in possession while hunting. A participant is not required to have the Dedicated Hunter Certificate of Registration in possession while hunting.

(9) The division may issue a duplicate Dedicated Hunter Certificate of Registration pursuant to Section 23-19-10.

(10) Certificates of registration are not transferable and shall expire at the end of a participant's third general deer hunting season.

(11)(a) The program requirements set forth in Sections R657-38-5, R657-38-6, and R657-38-7 may be waived annually if the participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for

the Dedicated Hunter Certificate of Registration for religious or educational purposes.

(b) If the participant requests that the program requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter Permit for the year in which the program requirements were waived.

(12)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-5, R657-38-7, and R657-38-9 be extended, and the requirement in Section R657-38-6 be satisfied as provided in Subsections (b) through (e).

(b) The program requirement set forth in Section R657-38-5 may be extended to the second or third year of the program.

(c) The program requirement set forth in Section R657-38-6 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.

(d) The program requirement set forth in Section R657-38-7 may be:

(i) extended to the third year in the program if the participant is currently in the second year of the program; and

(ii) waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.

(e) A participant must provide evidence of the mobilization or deployment.

(13) A refund for the Dedicated Hunter Certificate of Registration may not be issued pursuant to Section 23-19-38, except as provided in Section 23-19-38.2.

R657-38-4. Dedicated Hunter Permits.

(1)(a) Participants may hunt during the general archery, general season and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.

(b) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.

(2)(a) Participants must designate a regional hunt choice upon joining the program.

(b) The regional hunt choice shall remain in effect unless otherwise changed in writing by the participant by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day, or as modified or rescinded by the Wildlife Board.

(3)(a) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter Permit by mail.

(b) A participant who enters the program as a resident and becomes a nonresident, or claims residency outside of Utah shall be issued a nonresident permit at no additional charge.

(c) A participant who enters the program as a nonresident and becomes a resident, or claims residency in Utah, shall be issued a resident permit with no reimbursement of the higher nonresident fee.

(4)(a) Dedicated hunter permits may be issued through the mail by June 1 of each year and again two weeks prior to the beginning of the general archery deer hunt, and only upon evidence that all program requirements have been completed by the participant.

(b) Participants completing program requirements after June 1 may obtain their Dedicated Hunter Permit over-the-counter from any division office.

(5)(a) The division may issue a duplicate Dedicated Hunter Permit pursuant to Section 23-19-10.

(b) If a participant's unused permit and tag is destroyed,

lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate.

(c) A duplicate permit shall not be issued after the closing date of the general season buck deer hunt, however, a participant may complete an affidavit and submit a copy of the affidavit for program reporting purposes as required in Section R657-38-9(1).

(6)(a) A participant may exchange or surrender a Dedicated Hunter Permit in accordance with Rule R657-42 provided program requirements are met by June 1 annually.

(b) A participant may not exchange or surrender a Dedicated Hunter Permit for any other buck deer permit once the Dedicated Hunter Permit is issued and the general archery deer hunt has begun.

(7)(a) Lifetime license holders may participate in the program.

(b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general season or general muzzleloader permit.

R657-38-5. Wildlife Conservation Course.

(1)(a) The division shall provide an annual wildlife conservation course.

(b) Prior to entering or re-entering the program, and obtaining a certificate of registration, a prospective participant must complete the wildlife conservation course within the current year in which the prospective participant is entering or re-entering the program.

(2) The wildlife conservation course shall explain the program to give a prospective participant a reasonable understanding of the program as well as hunter ethics, the division's Regional Advisory Council and Wildlife Board processes, and wildlife conservation philosophies and strategies.

(3) The wildlife conservation course is available through the division's Internet site, and a limited number of classroom courses may be available, as scheduled by division offices.

(4)(a) Evidence of completion of the wildlife conservation course shall be provided to the prospective participant upon completion of the wildlife conservation course.

(b) Certificates of registration shall not be issued without verification of the prospective participant having completed the wildlife conservation course.

(c) The division shall keep a record of all participants who complete the wildlife conservation course.

R657-38-6. Wildlife Conservation Projects.

(1) Each participant in the program shall provide a total of 24 hours of service as a volunteer on a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee for each hour not completed as provided in Subsection (c).

(a) A participant must provide no fewer than eight hours of service before obtaining the first Dedicated Hunter Permit.

(b) A participant must provide the remaining balance of service hours prior to receiving the second Dedicated Hunter Permit.

(c) Residents may not purchase more than 16 of the 24 total required service hours. Nonresidents may purchase all of the 24 total required service hours.

(d) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife conservation project to provide other forms of service.

(e) Goods or services provided to the division for wildlife conservation projects by a participant may be, at the discretion of the wildlife conservation project manager, substituted for

service hours based upon current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.

(2) Wildlife conservation projects shall be designed by the division, or any other individual or entity and shall be pre-approved by the division.

(3)(a) Wildlife conservation projects may occur anytime during the year as determined by the division.

(b) The division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities at division offices.

(4)(a) Service hours completed in any given year may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.

(b) Dedicated hunter permits issued to participants who fail to make the deadline, two weeks prior to the opening date of the general archery deer hunt annually, shall be issued only as an over-the-counter transaction at division offices.

(5) A participant must request a receipt from the wildlife conservation project manager for service hours worked at the completion of the project, or upon showing evidence that the service hours worked are completed.

(6)(a) If a participant fails to fulfill the wildlife conservation project service requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter Permit for that year.

(b) The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife conservation project program requirements due or payment of the fee in lieu thereof.

(7) The wildlife conservation project manager shall keep a record of all participants who attend the wildlife conservation project and the number of hours worked.

R657-38-7. Regional Advisory Council.

(1) Prior to obtaining a second permit in the program, a participant must attend one regional advisory council meeting.

(2) A participant must request a receipt from the division for attending the regional advisory council meeting.

(3) The division shall keep a record of all participants who attend and sign the roll at the regional advisory council meetings.

R657-38-8. Obtaining Other Permits.

(1)(a) Participants may not apply for or obtain general buck deer permits issued by the division through the big game drawing, license agents, over-the-counter sales, or the Internet during the three-year period of enrollment in the program.

(b) In the initial sign-up year for the program, if the participant previously applied for a general buck deer permit through the big game drawing, a participant must withdraw that permit application prior to the application withdrawal date as published in the proclamation of the Wildlife Board for taking big game.

(i) The general buck deer permit fee may be refunded by the division in May, but the handling fee shall not be refunded.

(ii) If the participant fails to withdraw the general buck deer application and the permit is drawn, the general deer permit obtained through the drawing becomes invalid and must be surrendered prior to the beginning date of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(2) Participants may not apply for or obtain general landowner buck deer permits as provided under Rule R657-43.

(3)(a) Participants may apply for or obtain any other buck deer permit as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(b) Participants may apply for or obtain a Dedicated

Hunter Limited Entry Permit as provided under Section R657-38-10.

(c) If the participant obtains any other buck deer permit, or Dedicated Hunter Limited Entry buck deer permit, the Dedicated Hunter Permit becomes invalid and the participant must surrender the Dedicated Hunter Permit prior to the opening day of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(d) If the participant obtains any other buck deer permit, or a Dedicated Hunter Limited Entry Permit, the participant may use the permit only in the prescribed area during the season dates listed on the permit.

(e) Participants who obtain a cooperative wildlife management unit permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.

(4) The permit must be on the person while hunting.

(5) Obtaining any other buck deer permit does not authorize a participant to take an additional deer.

(6)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.

(b) Antlerless permits do not count against the number of permits issued pursuant to this program.

(c) Antlerless harvest of a deer as provided in the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game shall not be considered a program harvest.

R657-38-9. Reporting Requirements.

(1)(a) A participant must return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(5)(c), to a division office by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(b) The division shall credit any participant who fails to return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(5)(c), by January 31 with a program harvest.

(c)(i) An unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Subsection R657-38-4(5)(c), returned after January 31, will be accepted and the credited program harvest removed.

(ii) A participant who returns a permit after the January 31 deadline, and who is credited with a second program harvest, is only eligible to obtain a permit for an available region if permits remain after the big game drawing and must obtain the Dedicated Hunter Permit over-the-counter at a division office.

(iii) If there are no permits remaining after the big game drawing, additional Dedicated Hunter permits shall not be issued.

(2)(a) The division may contact participants to gather annual harvest information and hunting activity information.

(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.

(3)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall be assigned.

R657-38-10. Limited Entry Dedicated Hunter Program Drawing.

(1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day, may qualify the participant to be entered into the Dedicated Hunter Program Drawing provided:

(a) the participant is currently enrolled in the program; and
 (b) the participant has returned the Dedicated Hunter Permit and unused, attached tag, or an affidavit as provided in Section R657-38-4(5)(c).

(2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).

(b) The eligible participants and limited entry permits shall be randomly drawn.

(c) The successful participant must meet all program requirements by June 1 for the current year in which the permit is valid before the issuance of the permit.

(d) If the successful participant fails to fulfill program requirements by June 1, the permit may be issued to the next participant on the alternate drawing list as provided in Rule R657-42.

(3) The drawing results may be posted at division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(4)(a) The successful participant shall be notified by mail.

(b) The successful participant must submit the appropriate limited entry fee within ten business days of the date on the notification letter.

(c) If the successful participant fails to submit the required limited entry permit fee, the permit may be issued to the next participant, who would have drawn the permit, in accordance with Rule R657-42.

(5)(a) The Limited Entry Dedicated Hunter permit allows the recipient to take only the species for which the permit is issued.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

(f) Bonus points shall not be awarded or utilized when applying for or obtaining Limited Entry Dedicated Hunter permits.

(g) Any participant who obtains a Limited Entry Dedicated Hunter Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

R657-38-11. Certificate of Registration Surrender.

(1)(a) A participant who has obtained a Dedicated Hunter Certificate of Registration may surrender the certificate of registration to a division office provided the participant does not have two program harvests.

(b) A participant who surrenders the Dedicated Hunter Certificate of Registration may not re-enter the program until the participant's initial certificate of registration has expired.

(2) The division may not issue a refund except as provided in Section 23-19-38.

R657-38-12. Certificate of Registration Suspension.

(1) A Dedicated Hunter Permit and tag may not be issued

to any participant who:

(a) does not perform the program requirements; or

(b) violates the terms of this rule or the Dedicated Hunter Certificate of Registration.

(2) The division may revoke or suspend a certificate of registration as provided in Section 23-19-9.

**KEY: wildlife, hunting, recreation, wildlife conservation
 January 15, 2005 23-14-18
 Notice of Continuation November 30, 2000**

R657. Natural Resources, Wildlife Resources.**R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.****R657-42-1. Purpose and Authority.**

(1) Under the authority of Sections 23-19-1 and 23-19-38 the division may issue wildlife documents in accordance with the rules of the Wildlife Board.

(2) This rule provides the standards and procedures for the:

- (a) exchange of permits;
- (b) surrender of wildlife documents;
- (c) refund of wildlife documents;
- (d) reallocation of permits; and
- (e) assessment of late fees.

R657-42-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and the applicable rules and proclamations of the Wildlife Board.

(2) In addition:

(a) "Alternate drawing lists" means a list of persons who have not already drawn a permit and would have been the next person in line to draw a permit.

(b) "Deployed or mobilized" means that a person provides military or emergency services in the interest of national defense or national emergency pursuant to the demand, request or order of their employer.

(c) "Landowner association operator" for purposes of this rule, means:

(i) a landowner association or any of its members eligible to receive limited entry landowner permits as provided in Rule R657-43; or

(ii) Cooperative Wildlife Management Unit (CWMU) landowner association or its designated operator as provided in Rule R657-37.

(d) "Wildlife document" means any license, permit, tag, or certificate of registration issued by the division.

R657-42-3. Exchanges.

(1)(a) Any person who has obtained a general buck deer or a general bull elk permit may exchange that permit for any other available general permit if both permits are for the same species and sex.

(b) A person must make general buck deer and general bull elk permit exchanges at any division office prior to the season opening date of the permit to be exchanged.

(2) Any person who has obtained a cougar harvest objective unit permit may exchange that permit for any other available cougar harvest objective unit permit as provided in Rule R657-10.

(3) Any person who has obtained a limited entry bear any weapon or limited entry bear archery permit may exchange that permit for a limited entry bear archery or limited entry bear any weapon permit, respectively.

(4) The division may charge a handling fee for the exchange of a permit.

R657-42-4. Surrenders.

(1) Any person who has obtained a wildlife document and decides not to use it, may surrender the wildlife document to any division office.

(2) Any person who has obtained a wildlife document may surrender the wildlife document prior to the season opening date of the wildlife document for the purpose of:

(a) waiving the waiting period normally assessed and reinstating the number of bonus points, including a bonus point for the current year as if a permit had not been drawn, if applicable;

(b) reinstating the number of preference points, including

a preference point for the current year as if a permit had not been drawn, if applicable; or

(c) purchasing a reallocated permit or any other permit available for which the person is eligible.

(3) A CWMU permit must be surrendered before the following dates, except as provided in Section R657-42-11:

(a) the opening date for the respective general archery season for buck deer, bull elk or spike bull elk;

(b) September 1 for pronghorn and moose;

(c) August 15 for antlerless deer and elk;

(d) prior to the applicable season date for small game and waterfowl; and

(e) prior to the applicable season date of any variance approved by the Wildlife Board in accordance with Rules R657-21 and R657-37.

(4) Dedicated hunter participants must surrender their permits prior to the general archery deer season.

(5) The division may not issue a refund, except as provided in Section R657-42-5.

R657-42-5. Refunds.

(1) The refund of a license, certificate of registration or permit shall be made in accordance with:

(a) Section 23-19-38 and Rule R657-50;

(b) Section 23-19-38.2 and Subsection (3); or

(c) Section 23-19-38 and Subsection (4).

(2)(a) An application for a refund may be obtained from any division office.

(b) All refunds must be processed through the Salt Lake Division office.

(3) A person may receive a refund in accordance with Subsection (3) for a wildlife document if that person was deployed or mobilized on or after September 11, 2001, in the interest of national defense or national emergency and is thereby completely precluded from participating in the hunting or fishing activity authorized by the wildlife document, provided:

(a) the refund request is made to the division within one year of the end of the hunting or fishing season authorized by the wildlife document;

(b) the person surrenders the wildlife document to the division, or signs an affidavit stating the wildlife document is no longer in the person's possession; and

(c) the person verifies that the deployment or mobilization completely precluded them from participating in the activity authorized by the wildlife document, except as provided in Subsection (5); and

(d) the person provides military orders, or a letter from an employment supervisor on official public health or public safety organization letterhead stating:

(i) the branch of the United States Armed Forces, or name of the public health organization or public safety organization from which they were deployed or mobilized; and

(ii) the nature and length of their duty while deployed or mobilized.

(4) The division may issue a refund for a wildlife document if the person to whom it was issued dies prior to participating in the hunting or fishing activity authorized by the wildlife document, provided:

(a) The person legally entitled to administer the decedent's estate provides the division with:

(i) picture identification;

(ii) letters testamentary, letters of administration, or such other evidence establishing the person is legally entitled to administer the affairs of the decedent's estate;

(iii) a photocopy of the decedent's certified death certificate; and

(iv) the wildlife document for which a refund is requested.

(5) The director may determine that a person deployed or mobilized, or a decedent did not have the opportunity to

participate in the activity authorized by the wildlife document.

(6) The division may reinstate a bonus point or preference point, whichever is applicable, and waive waiting periods, if applicable, when issuing a refund in accordance with Subsection (3).

R657-42-6. Reallocation of Permits.

(1)(a) The division may reallocate surrendered limited entry, once-in-a-lifetime and CWMU permits.

(b) The division shall not reallocate resident and nonresident big game general permits.

(2) Permits shall be reallocated through the Salt Lake Division office.

(3)(a) Any limited entry, once-in-a-lifetime or public CWMU permit surrendered to the division shall be reallocated through the drawing process by contacting the next person listed on the alternate drawing list or as provided in Subsection (b).

(b) A person who is denied a permit due to an error in issuing permits may be placed on the alternate drawing list to address the error, if applicable, in accordance with the Rule R657-50.

(c) The alternate drawing lists are classified as private and therefore, protected under the Government Records Access Management Act.

(d) The division shall make a reasonable effort to contact the next person on the alternate list by telephone or mail.

(e) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public CWMU permit, does not accept the permit or the division is unable to contact that person, the reallocation process will continue until the division has reallocated the permit or the season closes for that permit.

(4) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public CWMU permit has obtained a permit, that person may be required to surrender the previously obtained permit in accordance with Section R657-42-4(2) and any other applicable rules and proclamations of the Wildlife Board.

(5) Any private CWMU permit surrendered to the division will be reallocated by the landowner through a voucher, issued to the landowner by the division in accordance with Rule R657-37.

(6)(a) The division may allocate additional general deer permits and limited entry permits, if it is consistent with the unit's biological objectives, to address errors in accordance with Rule R657-50.

(b) The division shall not allocate additional CWMU and Once-In-A-Lifetime permits.

(c) The division may extend deadlines to address errors in accordance with Rule R657-50.

R657-42-7. Reallocated Permit Cost.

(1) Any person who accepts the offered reallocated permit must pay the applicable permit fee.

(2) The division may not issue a refund, except as provided in Section R657-42-5.

R657-42-8. Accepted Payment of Fees.

(1) Personal checks, business checks, money orders, cashier's checks, and credit or debit cards are accepted for payment of wildlife documents.

(2) Personal or business checks drawn on an out-of-state account are not accepted.

(3) Third-party checks are not accepted.

(4) All payments must be made payable to the Utah Division of Wildlife Resources.

(5)(a) Credit or debit cards must be valid at least 30 days after any drawing results are posted.

(b) Checks, and credit or debit cards will not be accepted as combined payment on single or group applications.

(c) If applicable, if applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(d) Handling fees and donations are charged to the credit or debit card when the application is processed.

(e) Permit fees may be charged to the credit or debit card prior to the posting date of the drawings, if successful.

(f) The division shall not be held responsible for bank charges incurred for the use of credit or debit cards.

(6)(a) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

(b) The division charges a returned check collection fee for any check returned unpaid.

(7)(a) A license or permit is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

(b) The Division may make attempt to contact the successful applicant by phone or mail to collect payment prior to voiding the license or permit.

(c) The Division shall reinstate the applicant's bonus points or preference points, whichever is applicable, and waive waiting periods, if applicable, when voiding a permit in accordance with Subsection (b).

(d) A permit which is deemed void in accordance with Subsection (b) may be reissued by the Division to the next person listed on the alternate drawing list.

(8)(a) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit or debit card is invalid or refused.

(b) A person must notify the division of any change of credit or debit card numbers if the credit or debit card is invalid or refused.

(9) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(10) The division may require a money order or cashier's check to correct payment for a license, permit, or certificate of registration.

(11) Any person who fails to pay the required fee for any wildlife document, shall be ineligible to obtain any other wildlife document until the delinquent fees and associated collection costs are paid.

R657-42-9. Assessment of Late Fees.

(1) Any wildlife application submitted under the Utah Administrative Code Rules provided in Subsection (a) through (e), within 30 days of the applicable application deadline established in such rules, in the proclamations of the Wildlife Board, or by the division may be processed only upon payment of a late fee as provided by the approved fee schedule.

(a) R657-52, Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs;

(b) R657-21, Cooperative Wildlife Management Units for Small Game;

(c) R657-22, Commercial Hunting Areas;

(d) R657-37, Cooperative Wildlife Management Units for Big Game; or

(e) R657-43, Landowner Permits.

R657-42-10. Duplicates.

(1) Whenever any unexpired wildlife document is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original wildlife document, whichever is less.

(2) The division may waive the fee for a duplicate unexpired wildlife document provided the person did not receive the original wildlife document.

(3) To obtain the duplicate wildlife document, the applicant must complete an affidavit testifying to such loss, destruction or theft pursuant to Section 23-19-10.

R657-42-11. Surrender of Cooperative Wildlife Management Unit or Limited Entry Landowner Permits.

(1) A person who has obtained a CWMU or limited entry landowner permit may surrender the permit after the deadlines provided in Subsections R657-42-4(3)(a), (b), and (c) for CWMU permits and after the season opening date for limited entry landowner permits for the purpose of:

(a) death in accordance with Section 23-19-38, Subsection (2) and Section R657-42-5(4);

(b) injury or illness in accordance with Section 23-19-38 and Subsection (2);

(c) deployment or mobilization in the interest of national defense or national emergency in accordance with Section 23-19-38.2 and Subsection (2); or

(d) an error occurring in issuing the permit in accordance with Subsection (2) and Rule R657-50.

(2)(a) The permittee and the landowner association operator must sign an affidavit stating that the permittee has not participated in any hunting activity.

(b) The permittee and landowner association operator signatures must be notarized.

(c) The affidavit and unused permit must be submitted to the division.

(3)(a) The division may reissue a voucher to a landowner association operator, or reallocate a surrendered permit in accordance with Section 23-19-38 and as provided in Subsections (b) and (c).

(b) The division may reallocate a surrendered permit:

(i) originally issued by the division through the big game drawing process in accordance with Section R657-42-6; or

(ii) originally issued by the division through a voucher redemption in the form of a new voucher issued to the landowner association operator.

(c) Reissuance of vouchers or reallocation of permits under this section may only occur in the year in which the surrendered permit was valid.

KEY: wildlife, permits

January 15, 2005

Notice of Continuation May 14, 2003

23-19-1

23-19-38

23-19-38.2

R710. Public Safety, Fire Marshal.**R710-6. Liquefied Petroleum Gas Rules.****R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute, transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 58, LP Gas Code, 2004 edition, except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 2002 edition, except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2002 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et seq.

1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

R710-6-2. Definitions.

2.1 "Board" means the Liquefied Petroleum Gas Board.

2.2 "Concern" means a person, firm, corporation, partnership, or association, licensed by the Board.

2.3 "Dispensing System" means equipment in which LP Gas is transferred from one container to another in liquid form.

2.4 "Division" means the Division of the State Fire Marshal.

2.5 "Enforcing Authority" means the division, the municipal or county fire department, other fire prevention agency acting within its respective fire prevention jurisdiction, or the building official of any city or county.

2.6 "ICC" means International Code Council, Inc.

2.7 "IFC" means International Fire Code.

2.8 "License" means a written document issued by the Division authorizing a concern to be engaged in an LPG business.

2.9 "LPG" means Liquefied Petroleum Gas.

2.10 "LPG Certificate" means a written document issued by the Division to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.

2.11 "NFPA" means the National Fire Protection Association.

2.12 "Possessory Rights" means the right to possess LPG,

but excludes broker trading or selling.

2.13 "Public Place" means a highway, street, alley or other parcel of land, essentially unobstructed, which is deeded, dedicated or otherwise appropriated to the public for public use, and where the public exists, travels, traverses or is likely to frequent.

2.14 "Qualified Instructor" means a person holding a valid LPG certificate in the area in which he is instructing.

2.15 "UCA" means Utah State Code Annotated 1953 as amended.

R710-6-3. Licensing.

3.1 Type of license.

3.1.1 Class I: A licensed dealer who is engaged in the business of installing gas appliances or systems for the use of LPG and who sells, fills, refills, delivers, or is permitted to deliver any LPG.

3.1.2 Class II: A business engaged in the sale, transportation, and exchange of cylinders, but not transporting or transferring gas in liquid.

3.1.3 Class III: A business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances, or LPG systems.

3.1.4 Class IV: Those businesses listed below:

3.1.4.1 Dispensers

3.1.4.2 Sale of containers greater than 96 pounds water capacity.

3.1.4.3 Other LPG businesses not listed above.

3.2 Signature on Application.

The application shall be signed by an authorized representative of the applicant. If the application is made by a partnership, it shall be signed by at least one partner. If the application is made by a corporation or association other than a partnership, it shall be signed by the principal officers, or authorized agents.

3.3 Issuance.

Following receipt of the properly completed application, an inspection, completion of all inspection requirements, and compliance with the provision of the statute and these rules, the Division shall issue a license.

3.4 Original, Valid Date.

Original licenses shall be valid for one year from the date of application. Thereafter, each license shall be renewed annually and renewals thereof shall be valid for one year from issuance.

3.5 Renewal.

Application for renewal shall be made on forms provided by the SFM.

3.6 Refusal to Renew.

The Board may refuse to renew any license in the same manner, and for any reason, that they are authorized, pursuant to Article 5 of these rules to deny a license. The applicant shall, upon such refusal, have the same rights as are granted by Article 5 of this article to an applicant for a license which has been denied by the Board.

3.7 Change of Address.

Every licensee shall notify the Division, in writing, within thirty (30) days of any change of his address.

3.8 Under Another Name.

No licensee shall conduct his licensed business under a name other than the name or names which appears on his license.

3.9 List of Licensed Concerns.

3.9.1 The Division shall make available, upon request and without cost, to the Enforcing Authority, the name, address, and license number of each concern that is licensed pursuant to these rules.

3.9.2 Upon request, single copies of such list shall be furnished, without cost, to a licensed concern.

3.10 Inspection.

The holder of any license shall submit such license for inspection upon request of the Division or the Enforcing Authority.

3.11 Notification and LPG Certificate.

Every licensed concern shall, within twenty (20) days of employment, and within twenty (20) days of termination of any employee, report to the Division, the name, address, and LPG certificate number, if any, of every person performing any act requiring an LPG certificate for such licensed concern.

3.12 Posting.

Every license issued pursuant to the provisions of these rules shall be posted in a conspicuous place on the premises of the licensed location.

3.13 Duplicate License.

A duplicate license may be issued by the Division to replace any previously issued license, which has been lost or destroyed, upon the submission of a written statement from the licensee to the Division. Such statement shall attest to the fact that the license has been lost or destroyed. If the original license is found it shall be surrendered to Division within 15 days.

3.14 Registration Number.

Every license shall be identified by a number, delineated as P-(number).

3.15 Accidents, Reporting.

Any accident where a licensee and LPG are involved must be reported to the Board in writing by the affected licensee within 3 days upon receipt of information of the accident. The report must contain any pertinent information such as the location, names of persons involved, cause, contributing factors, and the type of accident. If death or serious injury of person(s), or property damage of \$5000.00 or more results from the accident, the report must be made immediately by telephone and followed by a written report.

3.16 Board investigation of accidents.

At their discretion, the Board will investigate, or direct the Division to investigate, all serious accidents as defined in Subsection 3.15.

R710-6-4. LP Gas Certificates.

4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

4.3 Types of Initial Examinations:

4.3.1 Carburetion

4.3.2 Dispenser

4.3.3 HVAC/Plumber

4.3.4 Recreational Vehicle Service

4.3.5 Serviceman

4.3.6 Transportation and Delivery

4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The written examination questions shall be taken from the adopted statute, administrative rules, NFPA 54, and NFPA 58.

4.4.2 The initial examination shall also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant.

4.4.3 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will

not delete the entire test.

4.4.4 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.5 As required in Sections 4.2 and 4.3, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Article 5.

4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

- 4.13.1 The name and address of the applicant.
- 4.13.2 The physical description of applicant.
- 4.13.3 The signature of the LP Gas Board Chairman.
- 4.13.4 The date of issuance.
- 4.13.5 The expiration date.
- 4.13.6 Type of service the person is qualified to perform.
- 4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

R710-6-5. Adjudicative Proceedings.

5.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

5.2 The issuance, renewal, or continued validity of a license or LPG certificate may be denied, suspended or revoked by the Division, if the Division finds that the applicant, person

employed for, or the person having authority and management of a concern commits any of the following violations:

5.2.1 The person or applicant is not the real person in interest.

5.2.2 The person or applicant provides material misrepresentation or false statement in the application, whether original or renewal.

5.2.3 The person or applicant refuses to allow inspection by the Division or enforcing authority on an annual basis to determine compliance with the provisions of these rules.

5.2.4 The person, applicant, or concern for a license does not have the proper or necessary facilities, including qualified personnel, to conduct the operations for which application is made.

5.2.5 The person or applicant for a LPG certificate does not possess the qualifications of skill or competence to conduct the operations for which application is made. This can also be evidenced by failure to pass the examination and/or practical tests.

5.2.6 The person or applicant refuses to take the examination.

5.2.7 The person or applicant has been convicted of a violation of one or more federal, state or local laws.

5.2.8 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

5.2.9 Any offense of finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the person or applicant were granted a license or certificate of registration.

5.2.10 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the person or applicant to safely and competently distribute, transfer, dispense or install LP Gas and/or it's appliances.

5.2.11 The person or applicant does not complete the re-examination process by the person or applicants certificate or license expiration date.

5.2.12 The person or applicant fails to pay the license fee, certificate of registration fee, examination fee or other fees as required in Section 6 of these rules.

5.3 A person whose license or certificate of registration is suspended or revoked by the Division shall have an opportunity for a hearing before the LPG Board if requested by that person within 20 days after receiving notice.

5.4 All adjudicative proceedings, other than criminal prosecution, taken by the Enforcing Authority to enforce the Liquefied Petroleum Gas Section, Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

5.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

5.6 The Board shall direct the Division to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

5.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

5.8 After a period of three (3) years from the date of revocation, the Board may review the written application of a person whose license or certificate of registration has been revoked.

5.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

R710-6-6. Fees.

- 6.1 Fee Schedule.

- 6.1.1 License and LPG Certificates (new and renewals):
 - 6.1.1.1 License
 - 6.1.1.1.1 Class I - \$450.00
 - 6.1.1.1.2 Class II - \$450.00
 - 6.1.1.1.3 Class III - \$105.00
 - 6.1.1.1.4 Class IV - \$150.00
 - 6.1.1.2 Branch office license - \$338.00
 - 6.1.1.3 LPG Certificate - \$30.00
 - 6.1.1.4 LPG Certificate (Dispenser--Class B) - \$10.00
 - 6.1.1.5 Duplicate - \$30.00
 - 6.1.2 Examinations:
 - 6.1.2.1 Initial examination - \$20.00
 - 6.1.2.2 Re-examination - \$20.00
 - 6.1.2.3 Five year examination - \$20.00
 - 6.1.3 Plan Reviews:
 - 6.1.3.1 More than 5000 water gallons of LPG - \$90.00
 - 6.1.3.2 5,000 water gallons or less of LPG - \$45.00
 - 6.1.4 Special Inspections.
 - 6.1.4.1 Per hour of inspection - \$50.00
(charged in half hour increments with part half hours charged as full half hours).
 - 6.1.5 Re-inspection (3rd Inspection or more)- -\$250.00
 - 6.1.6 Private Container Inspection (More than one container) - \$150.00
 - 6.1.7 Private Container Inspection (One container) 75.00
- 6.2 Payment of Fees.
The required fee shall accompany the application for license or LPG certificate or submission of plans for review.
- 6.3 Late Renewal Fees.
- 6.3.1 Any license or LPG certificate not renewed on or before one year from the original date of issuance will be subject to an additional fee equal to 10% of the required fee.
- 6.3.2 When an LPG certificate has expired for more than one year, an application shall be made for an original certificate as if the application was being taken for the first time. Examinations will be retaken with initial examination fees.

R710-6-7. Board Procedures.

- 7.1 The Board will review the Division and Enforcing Authorities activities since the last meeting, and review and act on license and permit applications, review financial transactions, consider recommendations of the Division, and all other matters brought to the Board.
- 7.2 The Board may be asked to serve as a review board for items under disagreement.
- 7.3 Board meetings shall be presided over and conducted by the chairman and in his absence the vice chairman.
- 7.4 Meetings of the Board shall be conducted in accordance with an agenda, which shall be submitted to the members by the Division, not less than twenty-one (21) days before the regularly scheduled Board meeting.
- 7.5 The chairman of the Board and Board members shall be entitled to vote on all issues considered by the Board. A Board member who declares a conflict of interest or where a conflict of interest has been determined, shall not vote on that particular issue.
- 7.6 Public notice of Board meetings shall be made by the Division as prescribed in UCA Section 52-4-6.
- 7.7 The Division shall provide the Board with a secretary, who shall prepare minutes and shall perform all secretarial duties necessary for the Board to fulfill its responsibility. The minutes of Board meetings shall be completed and sent to Board members at least twenty-one (21) days prior to the scheduled Board meeting.
- 7.8 The Board may be called upon to interpret codes adopted by the Board.
- 7.9 The Board Chairman may assign member(s) various assignments as required to aid in the promotion of safety, health and welfare in the use of LPG.

R710-6-8. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board:

8.1 All LP Gas facilities that are located in a public place shall be inspected by a certified LP Gas serviceman every five (5) years for leaks in all buried piping as follows:

8.1.1 All buried piping shall be pressure tested and inspected for leaks as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.

8.1.2 If a leak is detected and repaired, the buried piping shall again be pressure tested for leaks.

8.1.3 The certified LP Gas serviceman shall keep a written record of the inspection and all corrections made to the buried piping located in a public place.

8.1.4 The inspection records shall be available to be inspected on a regular basis by the Division.

8.2 Whenever the Division is required to complete more than two inspections to receive compliance on an LP Gas System, container, apparatus, appliance, appurtenance, tank or tank trailer, or any pertinent equipment for the storage, transportation or dispensation of LP Gas, the Division shall charge to the owner for each additional inspection, the re-inspection fee as stated in R710-6-6.1(e).

8.3 All LP Gas containers of more than 5000 water gallons shall be inspected at least biannually for compliance with the adopted statute and rules. The following containers are exempt from this requirement:

8.3.1 Those excluded from the act in UCA, Section 53-7-303.

8.3.2 Containers under federal control.

8.3.3 Containers under the control of the U.S. Department of Transportation and used for transportation of LP Gas.

8.3.4 Containers located at private residences.

8.4 Those using self-serve key or card services shall be trained in safe filling practices by the licensed dealer providing the services. A letter shall be sent to the Division by the licensed dealer stating that those using the self-serve key or card service have been trained.

8.5 IFC Amendments:

8.5.1 IFC, Section 3801.2 Permits. On line 2 after the word "105.7" add "and the adopted LPG rules".

8.5.2 IFC, Section 3803.1 - General. After the word "Code" on line 2 insert ",NFPA 54.

8.5.3 IFC, Section 3809.12 Location of storage outside of buildings. On line three replace the number "20" with the number "10".

8.6 NFPA, Standard 58 Amendments:

8.6.1 NFPA, Standard 58, Section 5.2.1.1 is amended to add the following section: (c) All new, used or existing containers of 5000 water gallons or less, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels". All new, used or existing containers of more than 5000 water gallons, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels", Section VIII, and shall either be registered by the National Board of Boiler and Pressure Vessel Inspectors or the Manufacturer's Data Report for Pressure Vessels, Form U-1A, be provided.

8.6.2 NFPA, Standard 58, Section 5.2.1.1 is amended to add the following section: (d) If an existing container is relocated within the State of Utah, and depending upon the container size, does not bear the required ASME construction code and/or National Board Stamping, the new owner may submit to the Division a request for "Special Classification Permit". Material specifications and calculations of the container shall be submitted to the Division by the new owner.

Also, the new owner shall insure that a review of the proposed container be completed by a registered professional engineer experienced in pressure vessel container design and construction, and the new owner submit that report to the Division. The Division will approve or disapprove the proposed container. Approval by the Division shall be obtained before the container is set or filled with LP Gas.

8.6.3 NFPA, Standard 58, Section 5.2.1.5 is amended to add the following section: (a) Repairs and alterations shall only be made by those holding a National Board "R" Certificate of Authorization commonly known as an R Stamp.

8.6.4 NFPA, Standard 58, Section 6.6.3 is amended to add the following section: 6.6.3.9 Skid mounted ASME horizontal containers greater than 2000 water gallons, with non-fireproofed steel mounted attached supports, resting on concrete, pavement, gravel or firm packed earth, may be mounted on the attached supports to a maximum of 12 inches from the top of the skid to the bottom of the container.

8.6.5 NFPA Standard 58, Sections 5.8.3.2(3)(a) and (b) are deleted and rewritten as follows:

Type K copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

8.6.6 NFPA, Standard 58, Section 6.6.1.2 is amended to add the following: When guard posts are installed they shall be installed meeting the following requirements:

8.6.6.1 Constructed of steel not less than four inches in diameter and filled with concrete.

8.6.6.2 Set with spacing not more than four feet apart.

8.6.6.3 Buried three feet in the ground in concrete not less than 15 inches in diameter.

8.6.6.4 Set with the tops of the posts not less than three feet above the ground.

8.6.7 NFPA, Standard 58, Section 8.4.1.1(1) is amended as follows: On line one remove "5ft (1.5m)" and replace it with "10 ft (3m)".

R710-6-9. Penalties.

9.1 Civil penalties for violation of any rule or referenced code shall be as follows:

9.1.1 Concern failure to license - \$210.00 to \$900.00

9.1.2 Person failure to obtain LPG Certificate - \$30.00 to \$90.00

9.1.3 Failure of concern to obtain LPG Certificate for employees who dispense LPG - \$210.00 to \$900.00

9.1.4 Concern doing business under improper class - \$140.00 to \$600.00

9.1.5 Failure to notify SFM of change of address - \$60.00

9.1.6 Violation of the adopted Statute or Rules - \$210.00 to \$900.00

9.2 Rationale.

9.2.1 Double the fee plus the cost of the license.

9.2.2 Double the fee plus the cost of the certificate.

9.2.3 Double the fee plus the cost of the license.

9.2.4 Double the fee.

9.2.5 Based on two hours of inspection fee at \$30.00 per hour.

9.2.6 Triple the fee.

KEY: liquefied petroleum gas

January 19, 2005

Notice of Continuation July 5, 2001

53-7-305

R746. Public Service Commission, Administration.**R746-360. Universal Public Telecommunications Service Support Fund.****R746-360-1. General Provisions.**

A. Authorization -- Section 54-8b-15 authorizes the Commission to establish an expendable trust fund, known as the Universal Public Telecommunications Service Support Fund, the "universal service fund," "USF" or the "fund," to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with the Telecommunications Act of 1996.

B. Purpose -- The purposes of these rules are:

1. to govern the methods, practices and procedures by which:

a. the USF is created, maintained, and funded by end-user surcharges applied to retail rates;

b. funds are collected for and disbursed from the USF to qualifying telecommunications corporations so that they will provide basic telecommunications service at just, reasonable and affordable rates; and,

2. to govern the relationship between the fund and the trust fund established under 54-8b-12, and establish the mechanism for the phase-out and expiration of the latter fund.

C. Application of the Rules -- The rules apply to all retail providers that provide intrastate public telecommunications services.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission. The Affordable Base Rate does not include the applicable USF retail surcharge, municipal franchise fees, taxes, and other incidental surcharges.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing the sum of all revenue derived from a telecommunications corporation's provision of public telecommunications services, including, but not limited to, revenues received from the provision of services in both the interstate and intrastate jurisdictions, whether designated "retail", "wholesale", or some other categorization, all revenues derived from providing network elements, services, functionalities, etc. required under the Federal Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 or the Utah Telecommunications Reform Act, Laws of Utah 1995, Chapter 269, all support funds received from the Federal Universal Service Support Fund, and each and every other revenue source or support or funding mechanism used to assist in recovering the costs of providing public telecommunications services in a designated support area by that telecommunications corporation's number of access lines in the designated support area.

C. Basic Telecommunications Service -- means a local exchange service consisting of access to the public switched network; touch-tone, or its functional equivalent; local flat-rated, unlimited usage, exclusive of extended area service; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine

the appropriate designated support areas for determining USF support requirements. Unless otherwise specified by the Commission, the designated support area for a rate-of-return regulated incumbent telephone corporation shall be its entire certificated service territory located in the State of Utah.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements obtained from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements obtained from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of public telecommunications services. The Commission will determine the appropriate geographic area to be used in determining public telecommunications service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues collected by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Trust Fund -- means the Trust Fund established by 54-8b-12.

J. USF Proxy Model Costs -- means the total, jurisdictionally unseparated, cost estimate for public telecommunications services, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission. These models shall be provided by the Commission by January 2, 2001.

K. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-3. Duties of Administrator.

A. Selection of Administrator -- The Division of Public Utilities will be the fund administrator. If the Division is unable to fulfill that responsibility, the administrator, who must be a neutral third party, unaffiliated with any fund participant, shall be selected by the Commission.

B. Cost of Administration -- The cost of administration shall be borne by the fund; unless administered by a state agency.

C. Access to Books -- Upon reasonable notice, the administrator shall have access to the books of account of all telecommunications corporations and retail providers, which shall be used to verify the intrastate retail revenue assessed in an end-user surcharge, to confirm the level of eligibility for USF support and to ensure compliance with this rule.

D. Maintenance of Records -- The administrator shall maintain the records necessary for the operation of the USF and this rule.

E. Report Forms -- The administrator shall develop report forms to be used by telecommunications corporations and retail providers to effectuate the provisions of this rule and the USF. An officer of the telecommunications corporation or retail provider shall attest to and sign the reports to the administrator.

F. Administrator Reports -- The administrator shall file reports with the Commission containing information on the

average revenue per line calculations, projections of future USF needs, analyses of the end-user surcharges and Affordable Base Rates, and recommendations for calculating them for the following 12-month period. The report shall include recommendations for changes in determining basic telecommunications service, designated support areas, geographic units, USF proxy cost models and ways to improve fund collections and distributions.

G. Periodic Review -- The administrator, under the direction of the Commission, shall perform a periodic review of fund recipients to verify eligibility for future support and to verify compliance with all applicable state and federal laws and regulations.

H. Proprietary Information -- Information received by the administrator which has been determined by the Commission to be proprietary shall be treated in conformance with Commission practices.

I. Information Requested -- Information requested by the administrator which is required to assure a complete review shall be provided within 45 days of the request. Failure to provide information within the allotted time period may be a basis for withdrawal of future support from the USF or other lawful penalties to be applied.

R746-360-4. Application of Fund Surcharges to Customer Billings.

A. Commencement of Surcharge Assessments -- Commencing June 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Surcharge -- The surcharge to be assessed shall equal 0.9 percent of billed intrastate retail rates.

R746-360-5. Fund Remittances and Disbursements.

A. Remitting Surcharge Revenues --

1. Telecommunications corporations, not eligible for USF support funds, providing telecommunications services subject to USF surcharges shall collect and remit surcharge revenues to the Commission within 45 days after the end of each month.

2. Telecommunications corporations eligible for USF support funds shall make remittances as follows:

a. Prior to the end of each month, the fund administrator shall inform each qualifying telecommunications corporation of the estimated amount of support that it will be eligible to receive from the USF for that month.

b. Net fund contributions shall be remitted to the Commission within 45 calendar days after the end of each month. If the net amount owed is not received by that date, remedies, including withholding future support from the USF, may apply.

3. The Commission will forward remitted revenues to the Utah State Treasurer's Office for deposit in a USF account.

B. Distribution of Funds -- Net Fund distributions to qualifying telecommunications corporations for a given month shall be made 60 days after the end of that month, unless withheld for failure to maintain qualification or failure to comply with Commission orders or rules.

R746-360-6. Eligibility for Fund Distributions.

A. Qualification --

1. To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), and shall be in compliance with Commission orders and

rules. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

2. Additional qualification criteria for Incumbent telephone corporations - In addition to the qualification criteria of R746-360-6A.1.,

a. Non-rate-of-return Incumbent telephone corporations shall make Commission approved, aggregate rate reductions for public telecommunications services, provided in the State of Utah, equal to each incremental increase in USF distribution amounts received after December 1, 1999.

b. Rate-of-return Incumbent telephone corporations shall complete a Commission review of their revenue requirement and public telecommunications services' rate structure prior to any change in their USF distribution which differs from a prior USF distribution, beginning with the USF distribution for December, 1999.

B. Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rates for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-7. Calculation of Fund Distributions in Non-rate-of-Return Regulated Incumbent Telephone Corporation Territories.

A. Use of Proxy Cost Models -- The USF proxy cost model(s) selected by the Commission and average revenue per line will be used to determine fund distributions within designated support areas.

B. Use of USF Funds -- Telecommunications corporations shall use USF funds to support each primary residential line in active service which it furnishes in each designated area.

C. Determination of Support Amounts --

1. Incumbent telephone corporation - Monies from the fund will equal the numerical difference between USF proxy model cost estimates of costs to provide residential Basic Telecommunications Service in the designated support area and the product of the Incumbent telephone corporation's Average Revenue per line, for the designated support area, times the number of Incumbent telephone corporation's active residential access lines in the designated support area.

2. Telecommunications corporations other than Incumbent telephone corporations - Monies from the fund will equal the Incumbent telephone corporation's average residential access line support amount for the respective designated support area, determined by dividing the Incumbent telephone corporation's USF monies for the designated support area by the Incumbent telephone corporation's active residential access lines in the designated support area, times the eligible telecommunications corporation's number of active residential access lines.

D. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

E. Exemptions -- Telecommunications corporations may

petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-8. Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories.

A. Determination of Support Amounts --

1. Incumbent telephone corporation - Monies from the fund will equal the numerical difference between the Incumbent telephone corporation's total embedded costs of providing public telecommunications services, for a designated support area, less the product of the Incumbent telephone corporation's Average Revenue Per Line, for the designated support area, times the Incumbent telephone corporation's active access lines in the designated support area.

2. Telecommunications corporations other than incumbent telephone corporations - Monies from the fund will equal the respective Incumbent telephone corporation's average access line support amount for the designated support area, determined by dividing the Incumbent telephone corporation's USF monies for the designated support area by the Incumbent telephone corporation's active access lines in the designated support area, times the eligible telecommunications corporation's number of active access lines in the designated support area.

B. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission-approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

C. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-9. One-Time Distributions From the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations, whether they are or are not receiving USF funds under R746-360-7 or R746-360-8, potential customers not presently receiving service because facilities are not available, or customers receiving inadequate service may apply to the Commission for one-time distributions from the fund for extension of service to a customer, or customers, not presently served or for amelioration of inadequate service.

1. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

2. One-time distributions will not be made for:

- a. New subdivision developments;
- b. Property improvements, such as cable placement, when associated with curb and gutter installations; or
- c. Seasonal developments that are exclusively vacation homes.

i. Vacation home is defined as: A secondary residence which is primarily used for recreation and is unoccupied for a period of four consecutive weeks per year.

3. An application for a one-time distribution may be filed with the Commission by an individual or group of consumers desiring telephone service or improved service, a telecommunications corporation on behalf of those consumers, the Division of Public Utilities, or any entity permitted by law to request agency action. An application shall identify the service(s) sought, the area to be served and the individuals or entities that will be served if the one-time distribution is approved.

4. Following the application's filing, affected telecommunications corporations shall provide engineering, facilities, costs, and any other pertinent information that will assist in the Commission's consideration of the application.

5. In considering the one-time distribution application, the Commission will examine relevant facts including the type and grade of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, whether the proposed service is for a primary residence, the provisions for service or line extension currently available, and other relevant factors to determine whether the one-time distribution is in the public interest.

B. Presumed Reasonable Amounts and Terms -- Unless otherwise ordered by the Commission, the maximum one-time distribution will be no more than \$10,000 per customer for customers of rate-of-return regulated companies. For customers of non-rate of return companies, the maximum one-time distribution shall be calculated so that the required customer payments would equal the payments required from a customer of a rate-of-return regulated company. The Commission will presume a company's service or line extension terms and conditions reasonable, for a subscriber in connection with one-time universal service fund distribution requests, if the costs of service extension, for each extension, are recovered as follows:

1. For rate-of-return regulated Local Exchange Carriers who request USF One-Time Distribution support for facility placement: The first \$2,500 of cost coverage per account is provided by the company; and for cost amounts exceeding \$2,500 per account up to two times the statewide average loop investment per account for rate-of-return regulated telecommunication companies, as determined annually by the Division of Public Utilities, the company will pay 50 percent of the costs of the project.

2. For non-rate-of-return Local Exchange Carriers who request USF One-Time Distribution support for facility placement the first \$2,500 of cost coverage per account is provided by the company; and all other costs are shared between the customer and the fund as provided herein.

3. For projects that exceed \$2,500 per account, but are equal to or less than \$10,000 per account, the customer shall pay 25 percent of the costs that exceed \$2,500. For projects that exceed \$10,000 per account, but are equal to or less than \$20,000 per account, the customer shall pay 50 percent of the costs that are greater than \$10,000 plus the previously calculated amount. For projects exceeding \$20,000 per account the customer shall pay 75 percent of the cost above \$20,000 until the State Universal Service Support Fund has paid the maximum amount as provided herein, any project costs above that level will be paid for 100 percent by the customer.

4. The State Universal Service Support Fund shall pay the difference between the sum of the defined company contributions plus customer contribution amounts and the total project cost up to the maximum amount provided herein.

5. Other terms and conditions for service extension shall be reviewed by the Commission in its consideration of an application and may be altered by the Commission in order to approve the use of universal service funds through the requested one-time distribution.

C. Combination of One-Time Distribution Funds with Additional Customer Funds and Future Customer Payment Recovery --

1. At least 51 percent of the potential customers must be full-time residents in the geographic area being petitioned for and must be willing to pay the initial up-front contribution to the project as calculated by the Commission or its agent.

2. Qualified customers in the area shall be notified by the telecommunications corporation of the nature and extent of the proposed service extension including the necessary customer

contribution amounts to participate in the project. Customer contribution payments shall be made prior to the start of construction. In addition to qualified customers, the Local Exchange Company needs to make a good faith effort to contact all known property owners within the geographic boundaries of the proposed project and invite them to participate on the same terms as the qualified customers. Local Exchange Companies may ask potential customers to help in the process of contacting other potential customers.

3. New developments and empty lots will not be considered in the cost analysis for USF construction projects unless the property owner is willing to pay the per account costs for each lot as specified in this rule.

4. Potential customers who are notified and initially decline participation in the line extension project, but subsequently decide to participate, prior to completion of the project, may participate in the project if they make a customer contribution payment, prior to completion of the project, of 105 percent of the original customer contribution amount.

5. For a period of five years following completion of a project, new customers who seek telecommunications service in the project area, shall pay a customer contribution payment equal to 110 percent of the amount paid by the original customers in the project.

6. The telecommunications corporation shall ensure that all customer contribution payments required by R746-360-9(C)(3), (4), and (5) are collected. Funds received through these payments shall be sent to the universal service fund administrator. The company is responsible for tracking and notification to the Commission when the USF has been fully compensated. All monies will be collected and reported by the end of each calendar year, December 31st.

7. For each customer added during the five-year period following project completion, the telecommunications corporation and new customers shall bear the costs to extend service pursuant to the company's service or line extension terms and conditions, up to the telecommunications corporation's original contribution per customer for the project and the customer contributions required by this rule. The company may petition the Commission for a determination of the recovery from the universal service fund and the new customer for costs which exceed this amount.

D. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

E. Notice and Hearing -- Following notice that a one-time distribution application has been filed, any interested person may request a hearing or seek to intervene to protect his interests.

F. Bidding for Unserved Areas -- If only one telecommunications corporation is involved in the one-time distribution request, the distribution will be provided based on the reasonable and prudent actual or estimated costs of that company. If additional telecommunications corporations are involved, the distribution will be determined on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

R746-360-10. Altering the USF Charges and the End-User Surcharge Rates.

The uniform surcharge shall be adjusted periodically to minimize the difference between amounts received by the fund and amounts disbursed.

R746-360-11. Support for Schools, Libraries, and Health Care Facilities. Calculation of Fund Distributions.

The Universal Service Fund rules for schools, libraries and

health care providers, as prescribed by the Federal Communications Commission in Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749, of Order issued May 8, 1996, and CFR Sections 54.500 through 54.623 inclusive, incorporated by this reference, is the prescribed USF method that shall be employed in Utah. Funding shall be limited to funds made available through the federal universal service fund program.

**KEY: public utilities, telecommunications, universal service
January 4, 2005**

Notice of Continuation November 25, 2003

54-3-1

54-4-1

54-7-25

54-7-26

54-8b-12

54-8b-15

R765. Regents (Board of), Administration.**R765-604. New Century Scholarship.****R765-604-1. Purpose.**

To provide policy and procedures for the administration of the New Century Scholarship which will be awarded to high school graduates who have accelerated their education process and have completed the requirements for an associate degree prior to September 1 of the same year they qualify to graduate from high school.

R765-604-2. References.

- 2.1. 53B-8-105, Utah Code Annotated 1953

R765-604-3. Definitions.

- 3.1. "Program" - New Century Scholarship program
- 3.2. "Awards" - New Century Scholarship funds which provide payment equal to 75% of recipient's tuition costs
- 3.3. "SBR" - State Board of Regents
- 3.4. "Recipient" - A Utah resident who has accelerated his or her education process and, prior to September 1 of the year he or she graduates from a regionally accredited Utah high school, completes the requirements for an associate degree.
- 3.5. "Associate Degree" - An Associate of Arts, Associate of Science, or Associate of Applied Science degree, or equivalent academic requirements, as received from or verified by a regionally accredited Utah public college or university, provided that if the college or university does not offer the associate degree, the requirement can be met if the institution's registrar verifies that the student has completed academic requirements equivalent to an associate degree prior to the September 1 deadline.

R765-604-4. Conditions of the Scholarship.

4.1. Program Terms - The program scholarship may be used at any of Utah's state-operated institutions of higher education that offer baccalaureate programs. Scholarship awards under this program are equal in value to 75% of the actual tuition costs and are valid for up to two years of full-time equivalent enrollment (60 semester credit hours) or until the requirements of a baccalaureate degree has been met, whichever is shorter. A student who has not used the award in its entirety within four years after his or her graduation from high school will become ineligible to receive a program award.

4.2. Applicant Qualification - To qualify for the award, an applicant must have graduated from a regionally accredited Utah high school in 1999 or later, and must have completed the requirements for an associate degree by September 1 of the year he or she graduated from high school.

4.3. Accredited College or University - The associate degree or verification of equivalent academic requirements must be received from a regionally accredited Utah public institution, provided the institution's academic on-campus residency requirements, if any, will not affect a student's eligibility for the scholarship if the institution's registrar's office verifies that the student has completed the necessary class credits for an associate degree.

4.4. Eligible Institutions - The award may be used at any of Utah's state-operated institutions of higher education that offer baccalaureate programs.

4.5. Dual Enrollment - The award may be used at more than one of Utah's eligible institutions within the same semester.

4.6. Student Transfer - The award may be transferred to a different eligible Utah institution upon the request of the student.

R765-604-5. Application Procedures.

5.1. Application Contact - Qualifying students may apply for the award through a high school counselor or the SBR office.

5.2. Support Documentation - Applicants must provide documentation verifying their date of graduation from a regionally accredited Utah high school, a copy of their college transcript, and prior to receiving the award, a signed affidavit from the registrar's office at the college or university in which the associate degree was completed verifying that all requirements have been met for an associate degree by September 1 of the year of high school graduation. If the student is enrolled at an institution which does not offer an associate degree, the registrar must verify that the applicant has completed the equivalent academic requirements.

5.3. Application Deadline - Applications must be received by the SBR office no later than thirty days prior to the academic term for which the recipient wishes to receive the award. Verifying documentation shall be provided as soon as reasonably possible.

5.4. Award Eligibility - If the recipient fails to meet the requirements of an associate degree by the September 1 deadline, or is not able to provide the required documentation in a timely manner, the program award will not be made.

R765-604-6. Distribution of Award Funds.

6.1. Amount of Award - The amount of the scholarship will be equal to 75% of the gross total cost of tuition based on the number of hours the student is enrolled. Tuition waivers, financial aid, or other scholarships will not affect the total award amount.

6.2. Tuition Documentation - The award recipient shall submit to SBR a copy of the tuition invoice or class schedule verifying the number of hours enrolled. SBR will calculate the amount of the award based on the published tuition costs at the enrolled institution(s).

6.3. Award Payable to Institution - The scholarship award will be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds should be used for higher education expenses including tuition, fees, books, supplies and equipment required for courses of instruction.

6.4. Added Hours after Award - The award will be increased to equal 75% of the tuition costs of any hours added in the semester after the initial award has been made. Recipient shall submit to SBR a copy of the tuition invoice or class schedule verifying the added hours before a supplemental award is made.

6.5. Dropped Hours after Award - If a student drops hours which were included in calculating the award amount, either the subsequent semester award will be reduced accordingly, or the student shall repay the excess award amount to SBR.

R765-604-7. Continuing Eligibility.

7.1. Reasonable Progress toward Degree Completion - The SBR may cancel the scholarship at any time if the student fails to make reasonable progress toward the completion of a baccalaureate degree. Each semester, the recipient must submit to SBR a copy of his or her grades to verify that he or she is meeting the established standards at the enrolled institution.

7.2. No Awards after Four Years - The SBR will not make an award to a recipient for an academic term that begins more than four years after the recipient's high school graduation.

7.3. No Guarantee of Degree Completion - A Century Scholarship award does not guarantee that the recipient will complete his or her baccalaureate program within the recipient's scholarship eligibility period.

R765-604-8. Leave of Absence.

8.1. Does Not Extend Time - A leave of absence will not extend the time limits of the scholarship. The scholarship must be used in its entirety for academic terms which begin within four years after the recipient's graduation from high school.

KEY: higher education, secondary education, scholarship*
February 4, 2000 **53B-8-105**
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